

JUN 27 1997

Eric N. Dahlstrom  
Rothstein, Donatelli, Hughes, Dahlstrom, Cron & Schoenburg  
234 North Central Avenue, Suite 722  
Phoenix, AZ 85004

Re: Amendments to Gaming Ordinance of Gila River Indian Community

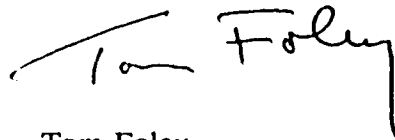
Dear Mr. Dahlstrom:

This letter is in response to your request to review and approve the amendment to the tribal gaming ordinance of the Gila River Indian Community (Tribe). The amendment to the ordinance was adopted by the Tribe by Resolution No. GR-09-96 on March 18, 1997. This letter constitutes such approval under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review amendments to ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. The amendments to the gaming ordinance are primarily non-substantive in nature. The few changes that are substantive do not implicate the IGRA and are therefore not subject to our approval.

Thank you for submitting the amendment to the tribal gaming ordinance of the Gila River Indian Community. The NIGC staff and I look forward to working with you and the Tribe in the future.

Sincerely yours,



Tom Foley  
Vice Chairman

cc: Mary Thomas, Governor of Gila River  
Rodney B. Lewis, General Counsel



# GILA RIVER INDIAN COMMUNITY

SACATON, AZ 85247

ORDINANCE GR-09-96

## A REVISION OF THE GAMING ORDINANCE

- WHEREAS,** the economic well-being and prosperity of members of the Gila River Indian Community (the "Community") is a concern of the highest priority to its governing body the Gila River Indian Community Council (the "Community Council"); and
- WHEREAS,** the Community Council, empowered by the Community's Constitution and Bylaws (1960) to pass ordinances toward the fulfillment of its powers, desires to enact this Revised Gaming Ordinance in order to clarify and improve the terms for conducting and regulating gaming operations on Community lands; and
- WHEREAS,** the Community Council is fully empowered to act in matters related to the Community's commercial activities; and
- WHEREAS,** the Community, in 1994, in order to optimize employment opportunities for its members, and produce revenues to support the provision of essential tribal services, established a Gaming Enterprise to conduct Class II and Class III gaming as such terms are defined in the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. Section 2701 et seq. (the "Act") and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. Section 402.3 (as published in the Federal Register at 57 Fed. Reg. 12382-12393, April 9, 1992) (the "Regulations"); and
- WHEREAS,** the Community entered into a Tribal-State Gaming Compact with the State of Arizona under which the Community operates and regulates Class III gaming on the Gila River Indian Reservation (the "Reservation") on July 6, 1993 (the "Compact"); and
- WHEREAS,** the Community recognizes that the economic success of its Gaming Enterprise is reliant on its fair and effective regulation by the Community and its Gaming Commission; and
- WHEREAS,** the Community has successfully conducted and regulated gaming under its Gaming Ordinance, adopted on January 19, 1994 in GR-01-94, and as amended on March 23, 1994 in GR-04-94; and
- WHEREAS,** as the result of a complete and thorough study of the Gaming Ordinance, the Community has concluded that it should be revised to clarify and improve its provisions.

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GILA RIVER INDIAN COMMUNITY  
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NOW THEREFORE BE IT RESOLVED, that the revision of the gaming ordinance is hereby approved and adopted and shall be known as the Gaming Ordinance, to govern, regulate, and control gaming activities in the Community.

BE IT FURTHER RESOLVED, that the Gaming Ordinance shall become effective in accordance with the Constitution of the Gila River Indian Community and upon approval by the Chairman of the National Indian Gaming Commission.

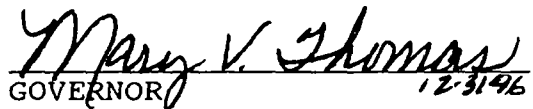
BE IT FURTHER RESOLVED, that the Governor, or her designee, is hereby authorized to sign and otherwise execute all documents necessary to secure approval by the Bureau of Indian Affairs, and the National Indian Gaming Commission.

BE IT FINALLY RESOLVED, that Ordinance GR-01-94 and Ordinance GR-04-94 are hereby rescinded.

CERTIFICATION

Pursuant to authority contained in Article XV, Section 1, (a), (5), (7), (9), (18), (19), (b), (3), (5), (6), (8), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1960 and approved by the Secretary of the Interior on March 17, 1960, the foregoing Ordinance was adopted this 24th day of December, 1996, at a Regular Community Council Meeting held in District #3, Sacaton, Arizona, at which a quorum of 14 members were present by a vote of 14 FOR; 0 OPPOSE; 0 ABSTAIN; 1 ABSENT; 2 VACANCY.

GILA RIVER INDIAN COMMUNITY

  
GOVERNOR 12-31-96

ATTEST:

  
COMMUNITY COUNCIL SECRETARY

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**GAMING ORDINANCE**  
**GR-09-96**



**DECEMBER 1996**

**GAMING ORDINANCE  
GR-09-96**

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## CHAPTER 1 - RULE OF INTERPRETATION AND DEFINITIONS

### 00.101 INTERPRETATION AND DEFINITIONS AS USED IN THIS TITLE

- A. Unless a different meaning is clearly indicated, the terms used herein shall be interpreted to have the same meaning as in the Indian Gaming Regulatory Act, Public Law 100-497, 25 U.S.C. Sections 2701 et seq. and by the regulations promulgated by the National Indian Gaming Commission at 25 C.F.R. Section 502.3 (as published in the Federal Register at 57 Fed. Reg. 12382-12393, April 9, 1992) and the Gila River Indian Community-State of Arizona Gaming Compact.
- B. Definitions as used in this title
1. **Act** shall mean the Indian Gaming Regulatory Act, as enacted by Public Law 100-497, and codified at 25 U.S.C. Sections 2701 et seq.
  2. **Applicant** shall mean any person who or organization which has applied for or intends to apply for a License or Certification under the provisions of this Ordinance, or employment with a Tribal Gaming Enterprise on the Reservation, or approval of any transaction required or permitted under the provisions of the Act, the Compact, or this Title.
  3. **Application** shall mean a request for the issuance of a License, or Certification or for employment by a Tribal Gaming Enterprise located on the Reservation, or for approval of any act or transaction for which approval is required or permitted under the provisions of the Act, the Compact or this Title.
  4. **Bingo Equipment** shall mean, with respect to bingo gaming, the receptacle from which markers designating numbers or other figures in play are drawn; the master board upon which such objects are placed as drawn; the cards or sheets bearing numbers or other designations to be covered during play and the objects used to cover them; the board or signs, however operated, used to announce selected numbers or designations as they are drawn; the public address system employed during play; and all other articles employed in the conduct and playing of bingo.
  5. **Board of Directors** shall mean the management board of a Tribal Gaming Enterprise located on the Reservation.

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6. **Cheat** shall mean any act committed with the intention of altering the selection of criteria which determine:
  - a. the result of a game subject to the provisions of this Title; or
  - b. the amount or frequency of payment in a game subject to the provisions of this Title.
7. **Chip** shall mean a non-metal or partly metal representative of value, redeemable for cash and issued and sold by a Gaming Enterprise located on the Reservation, for use at table or counter games at the Gaming Enterprise.
8. **Class I Gaming** means gaming defined as Class I Gaming in section 4(6) of the Act, 25 U.S.C. § 2703(6).
9. **Class II Gaming** means gaming defined as Class II Gaming in section 4(7) of the Act, 25 U.S.C. § 2703(7).
10. **Class III Gaming** means gaming defined as Class III Gaming in section 4(8) of the Act, 25 U.S.C. § 2703(8).
11. **Commission** shall mean the Gila River Gaming Commission established at Chapter Three of this Title.
12. **Commissioner** shall mean a member of the Gila River Gaming Commission.
13. **Community** shall mean the Gila River Indian Community, and as represented in their authorized capacities, its officials, agents and representatives.
14. **Community Council** shall mean the Gila River Indian Community Council, the governing body of the Gila River Indian Community.
15. **Community Court** shall mean the trial court of the Gila River Indian Community established by its Constitution.
16. **Community Treasurer** shall mean the Treasurer of the Gila River Indian Community.

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17. **Compact** shall mean the Gila River Indian Community-State of Arizona Gaming Compact of July 6, 1993, as may from time to time be amended.
18. **Constitution** shall mean the Constitution and Bylaws of the Gila River Indian Community, Arizona (March 17, 1960), as may be amended from time to time.
19. **Counsel or Attorney.** Counsel or Attorney is any member of a federally recognized tribe who is selected to represent a community member in a proceeding before the Commission or any attorney who is a member in good standing of the State Bar of Arizona.
20. **Distributor** shall mean a person who distributes Gaming Devices for use or play in a Gaming Enterprise.
21. **Entity** shall mean any corporation, firm, partnership, limited partnership, trust, or other form of business organization other than a Tribal enterprise wholly owned by the Community; provided, however, that the term shall also include each corporation, firm, partnership, limited partnership, trust or other form of business organization not a natural person which, directly or indirectly, owns, has the power or right to control or holds the power to vote all or any part of the outstanding Equity Securities, partnership interests, limited partnership interests or beneficial interest in a trust which holds or applies for a License or Certification under the provisions of this Title or the Compact.
22. **Equity Security**, with respect to each of the following shall mean:
  - a. **Corporation** - Any voting stock, or similar security; and security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; any warrant or right; or any security having a direct or indirect participation in the profits of the issuer.
  - b. **Limited Partnership** - An interest representing the right of a general or limited partner to receive from a limited partnership:

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- (1) a share of the profits; any other compensation by way of income;
  - (2) a return of any or all of his or her contribution to capital of the limited partnership; or
  - (3) the right to exercise any of the rights or powers provided in Title 29 of the Arizona Revised Statutes.
- c. **Partnership** - An interest representing the right of a partner to receive from a partnership a share of the profits; any other compensation by way of income; or a return of any or all of his or her contribution to capital of the partnership; or the right to exercise any of the rights or powers provided in Title 29 of the Arizona Revised Statutes.
23. **Executive Director** shall mean the Executive Director of the Commission.
24. **Fiscal Year** shall mean a period of twelve (12) consecutive months chosen by a Gaming Enterprise located on the Reservation as the accounting period for its annual financial reports.
25. **Founding Commissioner** shall mean a Commissioner appointed when the Commission is first established.
26. **Gaming Activity** means all forms of Class II or Class III Gaming conducted within the Reservation.
27. **Gaming Device** means a microprocessor-controlled electronic device which allows a player to play games of chance, some of which are affected by skill, which device is activated by the insertion of a coin, currency, Tokens or by the use of a credit, and which awards game credits, cash, Tokens, replays or a receipt that can be redeemed by the player for any of the foregoing. Game play may be displayed by:
- (1) Video facsimile; or
  - (2) Mechanical rotating reels whereby the software of the device predetermines the stop positions and the presence, or lack thereof, of a winning combination and will pay out, if any.

28. **Gaming Employee** shall mean any natural person employed by a Gaming Enterprise or employed in the operation or management of any Gaming Activity including, but not limited to, any person whose employment duties require or authorize access to restricted areas of a Gaming Facility not otherwise open to the public.
29. **Gaming Enterprise or Tribal Gaming Enterprise** shall mean any enterprise established by the Community to conduct Class II or Class III Gaming on the Reservation.
30. **Gaming Equipment** shall mean any equipment other than a Gaming Device as defined herein, including dice, playing cards, equipment which affects the proper reporting of gaming revenue, computerized systems of betting at a Sports Pool, computerized systems for monitoring Gaming Devices, keno equipment, and devices, for weighing or counting money.
31. **Gaming Facility or Gaming Facilities** shall mean all buildings used in connection with the conduct of Gaming Activity on the Reservation.
32. **Gaming Services** shall mean the goods and services other than legal services provided in connection with the conduct of Gaming Activity on the Reservation and shall include without limitation Bingo and Gaming Equipment and Gaming Devices, transportation, food, linens, janitorial supplies, maintenance, and security services for a Gaming Enterprise, provided, however, that the Commission may by Regulation exclude any purchases of goods or services from the definition of Gaming Services where the amount provided in any single month is less than \$10,000.
33. **General Counsel** shall mean the General Counsel of the Community.
34. **Generally Accepted Accounting Principles** shall mean the official pronouncement of the Government Accounting Standards Board, the Financial Accounting Standards Board and other authoritative sources recognized by certified public accountants.

35. **Generally Accepted Auditing Standards** shall mean the Auditing Standards as well as the Statements on Auditing Standards published by the American Institute of Certified Public Accountants.
36. **Governor** shall mean the Governor of the Community.
37. **Gross Revenue** shall mean, with respect to a Tribal Gaming Enterprise, the total casino revenue and other revenue of a Gaming Enterprise, less the total of all cash paid out as prizes to patrons.
38. **Internal Control System** shall mean the written administrative and accounting procedures implemented by a Gaming Enterprise designed to provide reasonable assurance regarding the safeguarding of assets, effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations to ensure effective control over the internal fiscal affairs of the Gaming Enterprise.
39. **Interstate Common Pari-Mutuel Pool** shall mean pooled Pari-Mutuel Wagers placed at a Track, its intrastate betting locations and other jurisdictions and Off-Track Pari-Mutuel wagers placed and accepted by Pari-Mutuel books.
40. **Key Employee** shall mean a person who performs one or more of the following functions:
  - a. Bingo caller;
  - b. Counting room supervisor;
  - c. Chief of Security;
  - d. Custodian of gaming supplies or cash;
  - e. Floor manager;
  - f. Pit boss;
  - g. Dealer;
  - h. Croupier;
  - i. Approver of credit;

- k. Custodian of Gaming Devices, including persons with access to cash and accounting records within such devices; and
  - l. with respect to any other person:
    - (a) those receiving cash compensation from gaming proceeds in excess of \$50,000 per year; and
    - (b) the four most highly compensated persons in a Gaming Enterprise.
41. **Lease** shall mean any formal or informal, written or oral contract, understanding or arrangement whereby a Gaming Enterprise located on the Reservation obtains the use or possession of any property, whether real or personal, to be used, occupied or possessed in connection with such Gaming Enterprise. Such term shall also include, any payment under a real property lease, personal property lease, unsecured note, deed of trust, mortgage or a trust indenture, without regard to the existence of relationships of affiliation or control between the parties thereto.
42. **Lessor** shall mean any person who Leases or rents any property, whether real or personal, to a Gaming Enterprise located on the Reservation.
43. **License** shall mean an approval, evidenced in writing, issued by the Commission to any person or organization to be involved in the conduct of Gaming Activity or to provide Gaming Services.
44. **Licensee** shall mean any natural person or Entity approved, Licensed, certified or otherwise found suitable by the Commission to be involved in the conduct of Gaming Activity or to provide Gaming Services to a Gaming Enterprise on the Reservation.
45. **Live Broadcast** shall mean an audio and video transmission of a race or series of races as simultaneously occur at a Track, whether or not furnished by a disseminator or for a fee.
46. **Manufacturer** shall mean a person who or Entity which manufactures Gaming Devices for use or play in the conduct of Gaming Activity on the Reservation.

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47. **Net Income** shall mean the Gross Revenue of a Gaming Enterprise less expenses, plus gains, minus losses.
48. **Off-Track Pari-Mutuel Wager** shall mean a Wager placed by a patron and accepted by the corporation's Pari-Mutuel book on a race or races offered as part of an Interstate Common Pari-Mutuel Pool, whether or not the wager is actually included in the total amount of the interstate wagering pool.
49. **Paraphernalia for Manufacturing Slugs** shall be understood to mean the equipment, products and materials intended or designed for use in manufacturing, producing, fabricating, preparing, testing, analyzing, packaging, storing or concealing a counterfeit facsimile of the Chips or Tokens approved by the Commission or a lawful coin of the United States, the use of which is unlawful. The term includes, but is not limited to:
- a. lead or lead alloys;
  - b. molds, forms or similar equipment capable of producing a likeness of a gaming Token or United States coin;
  - c. melting pots or other receptacles;
  - d. torches; and
  - e. tongs, trimming tools or other similar equipment.
50. **Pari-Mutuel** shall mean a system of wagering on a race or sporting event whereby the winners divide the total amount wagered, after deducting commission, fees and taxes in proportion to the amount individually wagered.
51. **Primary Management Official** shall mean, with respect to a Gaming Enterprise:
- a. any person who has the authority to:
    - (1) hire or fire employees;
    - (2) establish working policy for the gaming operation; or



- b. The chief financial officer or other person who has financial management responsibility for a Gaming Enterprise.
52. Principal shall mean with respect to each of the following:
- a. **Corporation** - Each of its officers and directors; each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager; and each beneficial owner of voting securities.
  - b. **Limited Partnership** - Each general partner and each limited partner owning more than ten (10) percent of an individual limited partnership interest.
  - c. **Partnership** - Each equity holder or partner.
  - d. **Proprietorship** - Each equity holder.
  - e. **Publicly Traded Corporation** - Each officer, director and employee that is, or is to become, actively and directly engaged in the administration and supervision of, or has or is to have any other significant involvement with, the activities of a subsidiary that is or will be involved with a Tribal Gaming Enterprise on the Reservation; and each shareholder who owns more than ten (10) percent of the voting securities thereof.
  - f. **Trust** - Each trustee and beneficiary.
  - g. **Natural Person** - Each person other than a banking institution, insurance company, investment company registered under the Investment Company Act of 1940, or investment banking firm, who has provided financing for an Entity constituting more than ten (10) percent of the total financing of the Entity.
53. **Publicly Traded Corporation** shall mean any corporation or other legal Entity other than a natural person which has one or more classes of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, as amended (15 U.S.C. § 781), or is an issuer subject to Section

15(d) of the Securities Exchange Act of 1934, as amended (15 U.S.C. § 780).

- 54. **Race Book** shall mean the business of accepting Wagers upon the outcome of any event held at a Track which uses the Pari-Mutuel system of wagering.
- 55. **Regulation** shall mean a rule, standard, directive or statement mandated to be uniformly applied which effectuates the provisions and policy of this Title, the Compact or a policy of the Community.
- 56. **Reservation** shall mean Gila River Indian Community Indian lands as defined by 25 U.S.C. Sections 2703 (4)(A) and (B), subject to the provisions of 25 U.S.C. Section 2719.
- 57. **Sports Pool** shall mean the business of accepting Wagers on sporting events by any system or method of wagering other than the system known as the Pari-Mutuel method of wagering.
- 58. **State** shall mean the State of Arizona and, when acting in their authorized capacities, its authorized officials, agents and representatives.
- 59. **State Gaming Agency** shall mean the agency designated by the State in written notice to the Community as the single State agency primarily responsible for oversight of Class III Gaming as authorized by the Compact.
- 60. **Subsidiary** shall mean a corporation all or any part of the outstanding voting securities of which are owned, subject to a power or right of control, or held with power to vote, by a publicly traded corporation or other holding company.
- 61. **Token** shall mean a metal representative of value, redeemable for cash, issued and sold by a Gaming Enterprise located on the Reservation for use in Gaming Devices and table or counter games at a Gaming Enterprise.
- 62. **Track** shall mean a facility licensed to conduct horse or other racing where Pari-Mutuel wagering is conducted on such races. Where applicable, the term shall also include Track operators, whether natural persons or governmental agencies and

associations of Track operators.

63. **Wager** shall mean a sum of money or thing or value risked on an uncertain occurrence in Class II or Class III Gaming.

00.102      CALCULATION OF TIME

In computing any period of time prescribed or allowed by this Ordinance, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday under the Community's laws, State law, or federal law, or when the act to be done is the filing of or providing access to any report or document, and the last day of the period falls on a day in which the weather or other conditions have made the offices in which the report or document is to be filed inaccessible, in which event the designated period shall extend until the end of the next day on which the office is accessible which is not a Saturday, Sunday or legal holiday, and is not one of the previously mentioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays and legal holidays under the Community's laws, State law or federal law shall be excluded from the computation period.

00.103      EFFECTIVE DATE

This Ordinance shall become effective in accordance with the Constitution of the Gila River Pima Maricopa Indian Community and upon approval by the Chairman of the National Indian Gaming Commission.

CHAPTER 2 - GENERAL

00.201 OWNERSHIP OF GAMING ENTERPRISES ON THE RESERVATION

The Community shall have the sole proprietary interest in the conduct of any Class II or Class III Gaming Activity located on the Reservation.

00.202 USE OF GAMING REVENUE

- A. Net revenues from Class II and Class III Gaming shall be used only for the following purposes:
  - 1. To fund Community government operations and programs;
  - 2. To provide for the general welfare of the Community and its members;
  - 3. To promote Community economic development;
  - 4. To donate to charitable organizations; and
  - 5. To fund operations of local government agencies of the Community.
- B. If the Community elects to make per capita payments to Community members, it shall authorize such payments only upon approval of a plan submitted to the Secretary of the Interior as prescribed according to 25 U.S.C. Section 2710(B)(3).
- C. Any facility housing a Gaming Enterprise shall be constructed, maintained and operated in a manner that adequately protects the environment and the public health and safety.

CHAPTER 3 - GILA RIVER GAMING COMMISSION

00.301 GILA RIVER GAMING COMMISSION

The Community Council hereby establishes the Gila River Gaming Commission for the purpose of regulating all gaming conducted on the Reservation. The Commission is the designated Tribal Gaming Office under the Compact.

00.302 NECESSARY POWERS

The Commission shall exercise all proper power and authority necessary to effectuate the purposes of this Title. The Commission

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shall meet with the Executive Director not less than once a month to make recommendations and set policy, to approve or reject reports of the Executive Director and to transact other business that may be properly brought before it. The Commission is vested with powers including but not limited to the following:

- A. To permit or refuse permission for the operation or conduct, in whole or in part, of Class II or Class III Gaming on the Reservation and to specify the conditions therefor in accordance with this Title.
- B. To grant, suspend, or revoke Licenses to persons, Entities, and Gaming Enterprises in accordance with this Title.
- C. To monitor and oversee the operation and conduct of all Gaming Activity on the Reservation on a continuing basis, including ongoing monitoring and oversight of Licensees engaged in the operation and conduct of Gaming Activity.
- D. To inspect and examine all premises at which gaming is conducted on the Reservation.
- E. To conduct or cause to be conducted background investigations of persons employed or contracted with in relation to the operation or conduct of gaming on the Reservation.
- F. To inspect, examine, photocopy and audit all papers, books and records respecting gross receipts of gaming activities operated or conducted on the Reservation and any other matters necessary to carry out the duties pursuant hereto.
- G. To bring suits in the Community Court to enforce this Title, including seeking temporary and permanent orders to cease any gaming not authorized by this Title.
- H. To enter into contracts with Tribal, federal, state and private entities for activities and services necessary for the discharge of its duties.
- I. To cooperate with other tribal gaming offices, the State Gaming Agency and National Indian Gaming Commission for the enforcement of applicable federal and tribal regulation of Gaming Activity conducted on the Reservation.
- J. Subject to approval by the Community Council, to recommend an annual budget of the Commission.

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- K. Subject to approval by the Community Council, to establish fees for Applications for Licenses.
- L. To require, through its powers to subpoena, the attendance and testimony of witnesses and the production of all books, papers and documents relating to any matter under consideration or investigation by the Commission and bring actions in the Community Court for the enforcement of such subpoenas.
- M. To administer or cause to have administered oaths and affirmations to witnesses appearing before the Commission.
- N. To hear appeals arising under Subsection 13 (c) and Sections 14 and 15 of the Compact.
- O. To keep minutes, records and books in which shall be kept a true, faithful, and correct record of all proceedings of the Commission.
- P. To recommend amendments to this Title to the Community Council.
- Q. To submit an annual report to the Community Council regarding the activities of the Commission and information pertaining to funding, income and expenses of the Commission.
- R. To hire personnel or consultants necessary for the effective and efficient operation and conduct of all gaming regulated pursuant hereto.
- S. To promulgate rules and Regulations as it deems appropriate to implement the provisions herein.

00.303 COMPOSITION OF THE COMMISSION

The Commission shall consist of five (5) members appointed by a majority of the Community Council. Members of the Commission must be enrolled members of the Gila River Indian Community or, if not a member therein, a person with experience in gaming operations, gaming law, gaming control or regulation, or gaming accounting sufficient to specially qualify him or her for appointment to the Commission.

00.304 TERMS OF COMMISSIONERS

A Commission member shall serve for three (3) years except that in order to initially establish an annually staggered

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appointment schedule, two (2) of the Founding Commissioners shall serve three (3) year terms, two (2) Founding Commissioners shall serve two (2) year terms, and one (1) Founding Commissioner shall serve a one (1) year term for the initially appointed terms only. Thereafter, all successive terms of appointments to the Commission shall be for three (3) year terms.

**00.305 SELECTION OF OFFICERS**

The Commission shall select annually, by majority vote, a Chairperson, a Vice Chairperson, and a Secretary.

**00.306 RESIGNATION OF COMMISSIONERS**

Any Commissioner may resign at any time by giving written notice which specifies the intended effective date of such resignation to the Secretary of the Commission and, by copy, notice to the Governor and the Community Council. The resignation shall become effective at the time specified in such notice, and the acceptance by the Commission or the Community Council of such resignation shall not be necessary to make it effective.

**00.307 REMOVAL BY THE COMMUNITY COUNCIL**

A Commissioner may be removed, with or without cause, from office prior to the expiration of his or her term by a majority vote of the Community Council, but no Commissioner may be so removed on account of the exercise of reasonable judgment by a Commissioner on a matter within the Commission's responsibility.

**00.308 VACANCIES**

Any unexpired portion of a Commissioner's term of office, howsoever caused, shall be filled by a person qualified pursuant to Sections 00.303 and 00.309 hereof appointed by a majority of the Community Council.

**00.309 REQUIREMENTS FOR COMMISSION MEMBERSHIP**

- A. Commissioners may not hold office in or be employed by the Community, nor may they engage in any business which is subject to Regulation pursuant to the provisions of this Title.
- B. No person shall be eligible or qualified to serve or continue to serve as a Commissioner or as an appointee or employee of the Commission who:
  - 1. has been convicted of a felony or a gaming offense;  
or

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2. has any financial interest in or management responsibility for any Gaming Activity.

C. No person shall be considered for appointment as a Commissioner until the person completes a background questionnaire and it is provided to the Community Council.

00.310 COMMISSIONERS BARRED FROM GAMING ON RESERVATION

A Commissioner may not patronize either directly or through another party any Class II or Class III games conducted on the Reservation, have any personal financial interest whatever in any game or gaming engaged in by a patron of games conducted on the Reservation, or have any financial interest in any Entity doing business with any Licensee.

00.311 OATH OF OFFICE

Before undertaking the discharge of his or her duties, each Commissioner shall take the oath of office set forth at Section Eleven of the Constitution.

00.312 COMPENSATION

Commissioners shall be compensated in the same manner and with the same benefits as members of the Community Council at a rate to be established annually by the Community Council. Commissioners shall be reimbursed for actual expenses incurred in the course of conducting Commission business, including necessary and reasonable travel expenses, in accordance with the Community's Travel Expense Policy.

00.313 GENERAL MEETINGS

General meetings of the Commission shall be open to the public and all meetings shall be governed by Roberts Rules of Order. The Commission may conduct portions of its meetings in executive sessions held pursuant to procedures the Commission adopts.

00.314 SPECIAL MEETINGS

The Chairperson of the Commission shall have the power to convene special meetings of the Commission upon 72 hours written notice or notice by telephone to Commission members.

00.315 MOTIONS AND RESOLUTIONS

The powers of the Commission are vested in the Commissioners. All official actions of the Commission shall be taken by motion or



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resolution approved by majority vote of the Commission. The Commission shall meet at the call of the Chairperson or a majority of its members, but shall meet at least once a month.

00.316 QUORUM

A quorum of members of the Commission shall consist of three (3) members. All decisions shall be made by a majority vote of Commissioners present at a meeting.

00.317 QUARTERLY REPORTS

The Commission shall make quarterly reports to the Community Council within forty five (45) days following the close of each calendar quarter. The Chief Executive Officer of a Gaming Enterprise shall cooperate with the Commission in the preparation of the reports. The Commission's reports to the Community Council shall include:

- A. A full and complete statement of revenues collected by all Tribal Gaming Enterprises, expenses and all other financial transactions of such Gaming Enterprises as reported to the Commission; and
- B. A summary of all licensing and enforcement actions taken by the Commission.

00.318 REGULATIONS

The Commission is empowered to adopt, amend and rescind Regulations to effectuate the provisions of the Compact and this Title. Within 90 days of the establishment of the Commission, Regulations shall be adopted which effectuate at least the following procedures:

- A. At least thirty (30) days before the initial meeting of the Commission and twenty (20) days before any subsequent meeting at which the adoption, amendment or rescission of a Regulation of the Commission is considered, notice of the proposed action shall be:
  - 1. published in such locations as the Commission prescribes;
  - 2. mailed to the State Gaming Agency, to every Gaming Enterprise, to the Secretary of the Community, to the Governor of the Community, to the Law Office of the Community, and to every person who has filed prior to the date of the notice, a request therefore; and

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3. mailed to any person believed by the Commission to have an interest granted pursuant to this Title.
- B. The notice of proposed adoption, amendment or rescission of a Regulation of the Commission must include:
1. a statement of the time, place and nature of the proceedings and a description of the nature of the proceedings as to whether they will concern adoption, amendment or rescission of Commission Regulations;
  2. reference to the authority under which the action is proposed; and
  3. either express terms or an informative summary of the proposed action.
- C. On the date and at the time and place designated in the notice, the Commission shall grant any interested person as defined pursuant to Subsection B., (immediately above), or his or her authorized representative, or both, the opportunity to present written statements or legal briefs. At the discretion of the Commission, persons submitting statements or legal briefs need not be allowed to present oral argument in a proceeding concerning a hearing conducted pursuant to this Section. The Commission shall consider all relevant matters presented to it before adopting, amending or rescinding any Regulation of the Commission.
- D. Any Licensee may file a petition with the Commission requesting the adoption, amendment or rescission of a Regulation of the Commission. The petition must state clearly and concisely:
1. the substance or nature of the Regulation, amendment or rescission requested;
  2. the reasons for the request; and
  3. reference to the authority of the Commission, as granted by the Community pursuant hereto, to take the action requested.
- E. Upon receipt of the petition, the Commission shall within thirty (30) days deny the request in writing or schedule the matter for action pursuant to this Subsection.

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- F. In emergencies, the Commission may summarily adopt, amend or rescind any Regulation affecting Gaming Activity regulated pursuant hereto, if at the same time it files a finding that such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare, together with a statement of the facts giving rise to such state of emergency; and simultaneously provides a copy of such finding to each Entity listed in paragraph A.2 above.
- G. In any hearing under this Section, the Commission or its officers or employees may administer oaths or affirmations and may continue or postpone the hearing from time to time and at such places as it prescribes.
- H. The Commission may request the advice and assistance of the Community Council in carrying out the provisions of this Section.

00.319 [deleted]

00.320 PERSONNEL

The Commission shall hire the Executive Director and such other personnel as is necessary to ensure the proper enforcement of the provisions of this Title and the Compact. Personnel of the Commission shall be hired through the Community's regular personnel procedure and shall be subject to its personnel policies and salary schedules.

00.321 THE EXECUTIVE DIRECTOR

- A. The Executive Director shall, at a minimum, be charged with the following responsibilities:
  - 1. The fulfillment and insurance of compliance with the requirements and provisions of this Title, the Compact and the Act;
  - 2. The cost-effective management of the Commission's resources according to the financial management and procurement procedures of the Community;
  - 3. The supervision, according to an organizational chart approved by the Commission, of personnel of the Commission according to the provisions of the Community's personnel policies and procedures manual;

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4. The hiring and firing of personnel and the maintenance of personnel records regarding personnel of the Commission;
  5. Cooperation with officials exercising jurisdiction for the enforcement of the law including this Title, the Compact, and the Act;
  6. The conduct of background investigations necessary pursuant to the terms of this Title and the Compact;
  7. Regular reporting to the Commission according to a written schedule prepared and approved by the Commission;
  8. The scheduling of and logistical arrangements concerning inspection of Gaming Enterprises;
  9. The collection, maintenance review and evaluation of financial records obtained from the Gaming Enterprises and the enforcement among Gaming Enterprises of the Financial Reporting requirements of this Title;
  10. The representation of the Commission before the National Indian Gaming Commission and the State Gaming Agency;
  11. Appearing to present claims of violations of the requirements and provisions of this Title and the Compact in proceedings of the Commission and representation of the Commission in legal proceedings before courts of competent jurisdiction; and
  12. The performance of all other such duties and responsibilities as may be assigned by the Commission.
- B. The Commission may, in its discretion, add additional provisions to the duties and responsibilities of the Executive Director.
- C. The Executive Director is designated the agent of the Commission and is authorized to accept service of process for the Commission.

00.322 COOPERATION WITH LAW ENFORCEMENT AGENCIES

The Commission shall cooperate with law enforcement officials of the State of Arizona, the Bureau of Indian Affairs, the Federal Bureau of Investigation and other law enforcement agencies and shall do all things necessary to assure that only fair and honest gaming, operated in full compliance with the provisions of this Title and the Compact and untainted by illegal activity or interests is conducted on the Reservation.

CHAPTER 4 - LICENSING PROCEDURES

00.401 LICENSING REQUIREMENTS, GENERALLY

- A. All Gaming Employees, Primary Management Officials, Key Employees, Gaming Enterprises, any person or Entity providing Gaming Services or Gaming Equipment to a Gaming Enterprise, and any person having any interest in or duty to perform with respect to gaming conducted on the Reservation, whether that interest or duty is direct or indirect, shall apply for and receive a License or a Temporary License from the Commission prior to their participation in any Gaming Activity.
- B. The Commission shall require that a separate License be maintained by a Gaming Enterprise for each place, facility, or location on the Reservation where a Gaming Enterprise is involved in the conduct of Class II or Class III Gaming pursuant to this Title.
- C. Temporary Licenses. The Commission may issue a temporary license upon receipt of a completed Application for a License unless a background investigation or the Application demonstrates on its face grounds to disqualify the Applicant. The Temporary License shall be valid until either replaced by a License or it is cancelled by the Commission.

00.402 LICENSE APPLICATION

- A. Notice to Applicant - The following notice shall be placed on the Application form for prospective Key Employees and Primary Management Officials:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. §§ 2701 et seq. The purpose of the requested information is to determine the eligibility of individuals to be employed in a gaming operation. The information will be used by members and staffs of the Gila River Indian Gaming Commission, (the "Commission"), the National Indian Gaming Commission (the "NIGC") and the Arizona State Gaming Agency (the "ASGA") who have need for the information in the performance of their official duties. The information may be disclosed to appropriate federal, Tribal, state and local or foreign law enforcement and regulatory agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to requirement by the GRGC, the NIGC or the ASGA in connection with the hiring or firing of an employee, the issuance or revocation of a gaming License, or investigations of activities while associated with a Gaming Enterprise on the Gila River Indian Reservation. Failure to consent to the disclosures indicated in this notice will result in a finding of ineligibility for employment or a License in a Primary Management Official or Key Employee position by a Gaming Enterprise operated on the Gila River Indian Reservation as defined pursuant to Title 22 of the Gila River Indian Community Code.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your Application.

An Applicant may claim any privilege afforded by the Constitution of the United States, or the Community, in refusing to answer questions of the Commission, the NIGC, and the ASGA. However, a claim of privilege with respect to any testimony or evidence pertaining to an Application may constitute sufficient grounds for denial.

Any gaming License which is issued by the Commission shall be deemed to be a revocable privilege and no person holding such a License by the Commission is deemed to have acquired any vested rights therein.

The burden of proving the Applicant's qualifications, to receive a License is understood to be at all times on the Applicant. An Applicant assumes any

risk of adverse public notice, embarrassment, criticism or other action or financial loss which may result from action with respect to an Application and expressly waives any claim for damages against the Community as a result thereof.

In addition to any other factor attaching to an Application required by Gila River Indian Community Code Title \_\_ or the Compact, an Application for a License shall constitute a request to the Commission, the NIGC and the ASGA for a decision upon the Applicant's general suitability, character, integrity and ability to participate or engage in or be associated with gaming on the Gila River Indian Reservation in the manner or position sought through application to the Commission, the NIGC or the ASGA. The Applicant specifically consents to the making of such a decision by the Commission, the NIGC or the ASGA at its election when the Application, after filing, becomes moot for any reason other than death.

It shall be grounds for disqualification from consideration for employment (or for termination after hire if selected) for there to be knowingly included in your Application any false statement or omission of a material fact necessary to make a given statement not misleading in view of the circumstances under which they occurred or were stated. Additionally, false statements are punishable by fine or imprisonment pursuant to 18 U.S.C. § 1001.

- B. Each Applicant for a License shall file with the Commission a written application in the form prescribed by the Commission, duly executed and verified which shall certify:
1. Applicant's full name and other names used (oral or written), Social Security Number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
  2. Currently and for the previous five (5) years: business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;
  3. The names and current addresses of at least three (3) personal references, including one personal reference who was acquainted with the Applicant during each period

of residence listed under paragraph b.(2), immediately above;

4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;
6. A description of any existing and previous business relationships with the gaming industry generally and any ownership interest in businesses or Entities with a direct or indirect involvement in the gaming industry;
7. The name and address of any licensing or regulatory agency with which the person has filed an Application for a License or permit related to gaming, whether or not such License or permit was granted;
8. For any felony for which there is pending prosecution or in relation to which a conviction has been effected, the charge, the name and address of the court involved, and the date and disposition if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution and any adverse juvenile disposition (excluding minor traffic violations), within ten (10) years of the date of the Application, the name and address of the court involved and the date and disposition of such matter;
10. For each criminal charge (excluding minor traffic citations and non-public juvenile proceedings), whether or not there is a conviction, if such criminal charge is within 10 years of the date of the Application and is not otherwise listed pursuant to paragraph (B)(8) or (B)(9) of this Section, the criminal charge, the name and address of the court involved and the date and disposition;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational License or permit, whether or not such License or permit was granted;
12. A current photograph;
13. Any other information the Commission deems relevant; and



14. Fingerprints consistent with procedures adopted by the Commission and in accordance with 25 C.F.R. Section 522.2(h) shall be taken by personnel of Law Enforcement Services, Pima Agency, Bureau of Indian Affairs, Department of Interior.
- C. Every statement, notice or report made as part of an Application must be accurate and complete as to content, including any requested supplemental information. Failure to supply supplemental information in the Applicant's possession within fifteen (15) days or other information within a reasonable period following the date on which the Applicant receives notice of the Commission's request for supplemental information shall constitute grounds for denying the Application or delaying consideration of the Application.
- D. All information required to be included in an Application must be true and complete as of the date of the Commission's action on the Application. An Applicant bears the responsibility on his or her own initiative to promptly supply by amendment, prior to Commission action on an Application, any information regarding occurrences following the date of the original Application necessary to make the Application accurate, complete and not misleading.
- E. An Application may be amended in any respect by leave of the Commission at any time prior to final action thereon. Any amendment to an Application shall have the effect of establishing the date of such amendment as the new filing date of the Application with respect to any time requirements set forth in this Title or in the Compact.
- F. Any document filed under any of the provisions of this Title may be incorporated by reference in a subsequent Application provided the incorporated document is available in the files of the Commission and is current and accurate on the date of filing.

00.403 APPLICATION AND INVESTIGATIVE FEES

- A. Except as provided elsewhere in this Title, all fees and costs incurred in connection with the investigation of any Application to the Commission will be borne by the Applicant as prescribed below.
- B. In addition to any nonrefundable Application fees paid, the Commission may require an Applicant to pay such supplementary investigative fees and costs as are required by the Commission. Such supplementary fees and costs may be estimated and

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the Applicant required to pay a deposit amount into a special investigative account established for the Applicant as a condition precedent to beginning or continuing an investigation, the actual total cost of which is not determined.

- C. The Commission shall not take final action to approve any Application unless all Application and investigative fees and costs have been paid in full. The Commission may deny the Application if the Applicant has failed or refused to pay all Application and investigative fees and costs.
- D. After all supplementary investigative fees and costs have been paid by an Applicant, the Commission shall refund to an Applicant any balance remaining in his or her investigative account of the Applicant.

**00.404 SUMMONING OF APPLICANTS**

The Commission may summon any person applying for a License and other witnesses to appear and testify before the Commission or Staff of the Commission at such time and place as may be designated. All such testimony may be required to be given under oath and relate to any matter which the Commission or its staff may deem relevant to the Application. Failure to appear and testify fully at the time and place designated, unless excused, constitutes grounds for denial of the Application without further consideration by the Commission.

**00.405 HEARING ON APPLICATIONS**

- A. Upon the conclusion of an investigation by the Commission, it may, in its discretion, hold a hearing to consider an Application. The Applicant shall be given at least fifteen (15) days advance written notice of such hearing by certified mail, return receipt requested.
- B. Failure of the Applicant to appear at such hearing and testify fully at the time and place designated, unless excused, shall constitute grounds for denial of the application without further consideration by the Commission.

**00.406 WITHDRAWAL OF APPLICATION**

- A. A request for withdrawal of an Application may be made at any time prior to final action upon the filing of a written request for such withdrawal with the Commission.
- B. The Commission may, in its discretion, deny a request for withdrawal of an Application or grant the request with or without prejudice.

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- C. If a request for withdrawal is granted with prejudice, the Applicant shall be foreclosed from reapplying for a license for a period of one (1) year from the effective date of the withdrawal.

00.407 APPLICATION FOR LICENSE AFTER DENIAL

Any person or Entity whose Application has been denied shall be foreclosed from reapplying for a license for a period of one (1) year from the effective date of the denial, unless the Commission expressly advises in writing that the denial is without prejudice as to reapplication.

00.408 APPLICATIONS FOR EMPLOYMENT AFTER REVOCATION

Any person or Entity whose License is revoked by the Commission shall be foreclosed from applying for employment with any Gaming Enterprise on the Reservation for a period of two (2) years from the effective date on which notice of the Commission's action was provided to the Gaming Enterprise at which the person first applied for employment.

00.409 UNSUITABLE AFFILIATES

The Commission may deny, revoke, suspend, limit, condition, or restrict any License, employment status or related Application upon grounds that the Applicant or Licensee is associated with, controls, or is controlled by, or is under common control with, a person or persons violating the licensing standards set forth in Section 00.410 hereof.

00.410 STANDARDS FOR LICENSING

No License shall be granted unless and until the Applicant has satisfied the Commission that the Applicant:

- A. is a person of good character, honesty, and integrity;
- B. is a person whose background, reputation or associations will not result in adverse publicity concerning the Community or a Gaming Enterprise; and
- C. is a person whose prior activities, criminal record, if any, or reputation, habits and associations do not pose a threat to the public interest or to the effective regulation of gaming, or do not create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

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00.411 LICENSING OF A NATURAL PERSON UNDER THE AGE OF EIGHTEEN

The Commission shall not grant a License to an individual under eighteen (18) years of age.

00.412 BACKGROUND INVESTIGATION

- A. The Commission shall conduct or cause to be conducted an investigation sufficient to make a determination of every Application submitted pursuant hereto. In conducting a background investigation, the Commission and its agents shall maintain the confidentiality of the identity of any person interviewed in the course of the investigation.
- B. Information provided pursuant to Section 00.402 and information from other sources shall be used by the Commission to conduct background investigations of:
  - 1. Primary Management Officials and Key Employees, including members of the Board of Directors of each Tribal Gaming Enterprise;
  - 2. Every Gaming Employee and every employee of the Commission and each Commissioner; and
  - 3. Manufacturers, suppliers and distributors of Gaming Devices, Gaming Equipment and Gaming Services.
- C. The Commission shall forward a copy of the Application and Investigation Report for Key Employees and Primary Management Officials to the National Indian Gaming Commission as follows:
  - 1. Whenever a Key Employee or Primary Management Official applies for a License under this Title, and before a License is granted under Section 00.401A, herein, the Commission shall forward to the National Indian Gaming Commission a completed Application and a request that a background investigation be conducted.
  - 2. The Commission shall also forward an Investigation Report to the National Indian Gaming Commission upon its completion or not later than sixty (60) days after a Key Employee or Primary Management Official begins work at a Gaming Enterprise on the Reservation. The Investigation Report shall describe the steps taken in the investigation, any conclusions reached, and all information required by the NIGC.

3. No Gaming Enterprise on the Reservation shall employ or continue to employ a Key Employee or Primary Management Official who does not have a License within ninety (90) days following submittal of his or her Application to the NIGC.
- D. The Commission shall submit to the National Indian Gaming Commission, with the Investigative Report, a copy of the eligibility determination made under Section 00.413 herein.
- E. In the event the Commission does not issue a License to an Applicant who has submitted an Application for a License, the Commission:
  - a. Shall notify the State Gaming Agency and
  - b. Shall forward copies of any such noneligibility determination along with any Investigative Report to the National Indian Gaming Commission for inclusion in the Indian Gaming Individuals Records System.
- F. Background investigations of Key Employees and Primary Management Officials--Description of Procedures

The procedures for background investigation of Key Employees and Primary Management Officials are as follows:

1. The Commission is responsible for conducting background investigations and suitability determinations in accordance with the Act and the Compact.
2. The Commission delegates the responsibility to and directs and authorizes its Executive Director and the Commission investigative staff to conduct background investigations and suitability determinations and they shall:
  - a. Conduct and cause to be conducted background investigations;
  - b. Review and approve the investigative work done;
  - c. Report the results of background investigations to the National Indian Gaming Commission;
  - d. Obtain and process fingerprints; and
  - e. Make suitability determinations.

3. The Commission was established pursuant to this Ordinance by the Community Council and the Commissioners were selected by the Community Council in accordance with Chapter 3 above. The Executive Director shall be selected by the Commission and the Commission shall have the power to terminate the Executive Director. The investigative staff shall be hired by the Executive Director in accordance with Section 00.320 of this Ordinance.
4. The investigative procedure shall include but not be limited to the following:
  - a. Verify by written or oral communication information submitted by applicant.
  - b. Inquire into the applicant's prior activities, criminal record, if any, and reputation, habits and associations; interview a sufficient number of knowledgeable people such as former employers, personal references, and others to whom referred in order to provide a basis for the Commission to make a finding concerning the eligibility for employment in a gaming operation.
  - c. Document the disposition of all potential problem areas noted and disqualifying information obtained.
5. Prepare investigative reports setting forth the following:
  - a. Steps taken in conducting the background investigation;
  - b. Results obtained;
  - c. Conclusions reached; and
  - d. The basis for those conclusions.

00.413 GRANTING A GAMING LICENSE

- A. If, within a thirty (30) day period after the National Indian Gaming Commission receives both an Application and an Investigation Report from the Commission, the National Indian Gaming Commission notifies the Commission that it has no objection to the issuance of a License to a Key Employee or a Primary Management Official, the Commission may issue a License to such Applicant.

- B. The Commission shall respond to a request for additional information from the National Indian Gaming Commission concerning a Key Employee or a Primary Management Official who is the subject of an Investigative Report. Such a request shall suspend the thirty (30) day period under Subsection 00.413 A. until the National Indian Gaming Commission receives the additional information.
- C. If, within the thirty (30) day period described above the National Indian Gaming Commission provides the Commission with a statement itemizing objections to the issuance of a License to a Key Employee or to a Primary Management Official for whom the Commission has provided an Application and Investigative Report to the National Indian Gaming Commission, the Commission shall reconsider the Application, taking into account the objections itemized therein. The Commission shall make the final decision whether to issue a License to such Applicant.

00.414 LICENSE SUSPENSION AND REVOCATION

- A. If, after the issuance of a License, the Commission receives from the National Indian Gaming Commission or other source reliable information indicating that a Key Employee, a Primary Management Official, or other Licensee is not eligible for a License under 00.410, the Commission shall suspend such License and shall notify in writing the Licensee of the suspension and the proposed revocation.
- B. The Commission shall notify the Licensee of a time and a place for a hearing on any proposed revocation of a License.
- C. After a revocation hearing, the Commission shall decide whether to revoke, to reinstate, or to take other action concerning a gaming License. The Commission shall notify the State Gaming Agency and the National Indian Gaming Commission of its decision.
- D. In addition to any other sanction which may be imposed under this Title, a License may be suspended by the Commission, and, after notice and hearing as provided in this Title, a License may be revoked if it is shown that the Licensee:
  - 1. has knowingly made a materially false or misleading statement in any Application for a License, in any amendment thereto, or in any response to a request by the Commission for supplemental information or in connection with any investigation of the Commission;

2. has failed to keep sufficient books and records to substantiate any reports required by this Title or Regulations of the Commission;
3. has falsified any books or records relating to any transaction connected with the operation or conduct of Class II or Class III Gaming conducted on the Reservation;
4. has been convicted of any felony or gaming offense;
5. has interfered with or unduly influenced or attempted to interfere or unduly influence any legislative or administrative decision or process of the Commission or the Community;
6. has deliberately or substantially failed to provide information to or answer relevant questions of the Commission or its staff or failed to comply with the provisions of this Title or the terms of any License granted pursuant hereto;
7. does not meet the standards established in Section 00.410 herein; or
8. has failed to comply with applicable laws or regulations of the Community, Regulations of the Commission, provisions of the Compact, regulations of the National Indian Gaming Commission, the Act, or other applicable federal laws.
9. has been elected to the Community Council.

00.415 IMMEDIATE SUSPENSION

If, in the judgment of a majority of Commissioners, the public interest, the effective regulation and control of gaming or the safe, fair and honest operation and conduct of Class II or Class III Gaming on the Reservation requires the immediate exclusion of a Licensee from involvement in such gaming, the Commission may immediately suspend a License prior to the conduct of a hearing of the matter. Such an immediate suspension may take effect upon service of a complaint upon the Licensee.

00.416 COMPLAINT; SERVICE OF PROCESS

Proceedings to suspend or revoke a License or to take other disciplinary action against a Licensee shall be initiated by the Commission by serving a complaint upon the Licensee. The service of process of the Commission, including complaints, subpoenas, or other



process may be accomplished in the same manner as similar process issued by the Courts of the Gila River Indian Community or if served outside the boundaries of the Community, then according to the applicable local rules of civil procedure.

00.417 [deleted]

00.418 SUBPOENAS

At the request of the Licensee for good cause shown, or on its own motion, the Commission shall issue subpoenas for the attendance of witnesses at depositions and at hearings, for medical or physical examination, and for the production of papers, books, records, and documents.

00.419 HEARING, WRITTEN DECISION

Hearings of the Commission shall be held and concluded without unreasonable delay. Following a hearing, the Commission shall timely issue a decision in writing and shall include findings of fact and conclusions of law in support of its decision. The Commission shall issue its decision within sixty (60) days of the hearing. The Licensee shall be informed of the decision and, in the event of a suspension or revocation of his or her License, of the effective date of the suspension or revocation ordered.

00.420 SURRENDER OF LICENSE

When the Commission suspends or revokes a License, the Licensee shall surrender the License to the Commission on or before the effective date of the suspension or revocation. No License shall be valid as of the effective date of an ordered suspension or revocation, whether or not the License is actually surrendered.

00.421 ADDITIONAL SANCTIONS

- A. Upon a determination to suspend or revoke a License and in addition to any other penalties imposed, the Commission may declare a Licensee ineligible to:
  - 1. Participate, directly or indirectly, in the operation or conduct of Class II or Class III Gaming anywhere on the Reservation; or
  - 2. Apply for a License within the periods provided in 00.406 C. and 00.408.
- B. A declaration of ineligibility by the Commission may be extended to, for cause shown and after notice and hearing, include any Primary Management Officials, Key Employees,

officers and/or directors of the Licensee and any of its subsidiary organizations, parent organizations, or affiliates.

00.422 ADVERSARY PROCEEDINGS OF THE COMMISSION

- A. Service of Complaint - Upon referral by the Commission the Executive Director shall institute an adversary proceeding against a Licensee and shall prepare and serve the complaint upon the respondent either personally or by certified mail at his or her address on file with the Agency. Proof of service may be provided by a certificate or affidavit of service, which shall be signed by the person effecting service and specify the date and manner in which service.
- B. Contents of Complaint - The complaint issued in relation to an adversary proceeding must be in writing and set forth in ordinary and concise language the acts or omissions which the respondent is believed to have committed. The complaint must cite the sections of law or regulation which the respondent is alleged to have violated.
- C. Answer - The respondent shall file an answer to the complaint with the Commission within twenty (20) days after service of the complaint.
  - 1. In his or her answer the respondent must:
    - a. state in short and plain terms his or her defenses to each claim asserted;
    - b. admit or deny each and every fact alleged in the complaint;
    - c. state which allegations he or she is without knowledge or information sufficient to form a belief as to their truth. Such allegations shall be deemed denied; and
    - d. affirmatively set forth any matter which constitutes an avoidance or affirmative defense.
  - 2. The respondent may demand a hearing in his or her answer to the complaint. Failure to demand a hearing in the answer constitutes a waiver of that right but, at the Commission's discretion, a hearing not requested in the respondent's answer may be granted.
  - 3. Failure to file an answer constitutes an admission by the respondent of all facts alleged in the complaint.

The Commission may take action based on such an admission and on other evidence without further notice to the respondent.

- D. Setting of Hearing - The Chair of the Commission shall serve a notice of the hearing date within fourteen (14) days following receipt of respondent's answer.
- E. Appearance Through Counsel
  - 1. Parties to proceedings governed by this Title may appear personally or through an attorney, except that the parties must themselves attend any hearing on the merits unless such attendance is waived in advance by the Commission.
  - 2. Once a party appears through an attorney, all future service of notices, motions, orders, decisions or other papers shall be made upon the attorney.
  - 3. When a party is represented by an attorney, the attorney may sign all motions, opposition, notices, requests, and other papers on behalf of the party.
  - 4. The Executive Director may appear by and have the assistance of counsel.
- F. Prehearing Conferences
  - 1. After the respondent files an answer to the complaint, the Chair of the Commission may direct the parties to participate in a conference or conferences before the hearing on the merits, for such purposes as expediting the disposition of the action, resolving discovery issues, and facilitating the settlement of the case.
  - 2. The participants at a prehearing conference shall be prepared to consider and act to address any or all of the following, as directed by the Chair of the Commission:
    - a. the formulation and simplification of the issues;
    - b. the necessity or desirability of amendments to the complaint or answer;
    - c. the possibility of obtaining admissions of fact which will avoid unnecessary proof, stipulations regarding the admissibility or authenticity of documents, and advance rulings from the Chair of

- the Commission regarding the admissibility of evidence;
- d. the avoidance of unnecessary findings of proof and evidence;
  - e. the identification of witnesses and documents, the need and schedule for filing and exchanging prehearing briefs, and the date or dates for further conferences and for the hearing on the merits;
  - f. the possibility of settlement;
  - g. the disposition of pending motions;
  - h. the possibility that all evidence can be submitted by affidavits, transcripts, and other documents; and
  - i. such other matters as may aid in the disposition of the action.
3. At a time designated by the Chair of the Commission, the respondent and the Executive Director shall set forth in a written prehearing statement, to be filed in the proceeding record, any matter no longer in dispute, and any matters for which no agreement has been reached and which require a ruling.

G. Discovery: Mandatory Exchanges

Within twenty (20) calendar days following the date on which respondent's answer is received by the Commission, or such other date as the parties may agree or the Chair of the Commission may order, the respondent and the Executive Director shall personally confer and shall:

- 1. Exchange copies of all documents then reasonably available to a party which are then intended to be offered as evidence in support of the party's case in chief;
- 2. Identify, describe, or produce all tangible and reasonably available things, other than documents, which are intended to be offered as evidence in support of the party's case in chief, and upon request, arrange for the opposing party or parties to inspect, copy, test, or sample the same under the supervision of the parties;

3. Exchange written lists of persons each party intends to call as a witness in support of the party's case. Each witness shall be identified by name, if known; position; business address and a brief description of the purpose for which the witness will be called. If no business address is available, the party shall provide a home address for the witness, or shall make the witness available for service of process.
4. The parties shall bear a continuing obligation to produce documents, witness lists, and other matters governed by this Section as such become identified by and available to the parties. A party may amend a response by informing the adverse party that documents previously produced or witnesses previously listed will not be introduced in that party's case in chief.

00.423 CONDUCT OF ADVERSARY HEARINGS

The following procedures shall apply to adversary proceedings conducted under this chapter.

- A. A respondent may present and argue any legal objections to the complaint set forth in his or her answer.
- B. The Executive Director will present his or her opening statement on the merits. The respondent will then be permitted to make an opening statement of the defense, or he or she may reserve the same until commencement of the presentation of the case for the respondent.
- C. The Executive Director will then present his or her case in chief in support of the complaint.
- D. Upon conclusion of the Executive Director's case in chief, the respondent may move for dismissal of the complaint. The Commission may hear arguments on the motion, or may grant, deny, or reserve decision thereon, with or without argument.
- E. If no motion to dismiss is made, or if such motion is denied or decision reserved thereon, the respondent shall thereupon present the case for the respondent.
- F. Upon conclusion of the respondent's case, the Executive Director may present his or her case in rebuttal.
- G. Upon conclusion of the Executive Director's case in rebuttal, the Executive Director shall present his or her closing argument, the respondent may present answering argument, and thereafter the Executive Director may present rebuttal

argument. Thereupon the matter will stand submitted for decision.

- H. Any member of the Commission may ask questions of witnesses, parties, or counsel and may request or allow additional evidence at any time, including additional rebuttal evidence.
- I. Objections asserted by the parties may be immediately ruled upon by the Commission or taken under advisement and the hearing continued.
- J. The Commission may meet in closed session with, or without, counsel to deliberate concerning any ruling and the final decision in the proceeding. All rulings and decisions shall be announced in open session.
- K. The open sessions of an adversary hearing shall be recorded either by audio recording or by stenographic means. The transcript or audio tape shall be made a part of the hearing record.
- L. The Commission may delegate responsibility for conducting prehearing and hearing proceedings, in whole or in part, to a hearing officer. A hearing officer that conducts a hearing on behalf of the Commission shall issue a written decision which the Commission may adopt as the decision of the Commission. If the Commission does not adopt a hearing officer's decision, then the Commission shall establish such further proceedings as may be required to enter a final decision and shall provide notice of the same to the Licensee.

00.424 EVIDENCE: ADMISSIBILITY

- A. Reliable evidence will be admitted in a proceeding. Evidence is reliable if it is the sort of evidence on which responsible persons are accustomed to relying upon in the conduct of serious affairs or if the evidence would be admissible in a court of law.
- B. Irrelevant or unduly repetitious evidence shall be excluded upon request of a party or the Commission's own initiative.

00.425 EVIDENCE: AUTHENTICATION AND IDENTIFICATION

Documentary and other physical evidence may be authenticated or identified by any method through which the matter in question can be shown to be what its proponent claims it to be.

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00.426 FAILURE OR REFUSAL TO TESTIFY

- A. If a respondent fails to testify in his or her own behalf or asserts a claim of privilege against self-incrimination with respect to any question propounded to him or her at a deposition or at a hearing, the Commission may infer therefrom that such testimony or answer would have been adverse to his or her case.
- B. If any person controlling, controlled by, or under common control with, or employed by, or an agent of, a respondent fails to respond to a subpoena, or asserts a claim of privilege against self-incrimination with respect to any question propounded to him or her, the Commission may, taking into account all of the circumstances, infer that such testimony would have been adverse to the respondent.
- C. If, on a ground other than a properly invoked privilege against self-incrimination, a respondent fails to respond to a subpoena, or fails or refuses to answer a material question propounded to him or her, the Commission may deem such failure or refusal to be independent grounds for granting the relief requested by the Executive Director in the complaint with respect to that respondent.

00.427 CONTINUANCES

A matter shall not be continued except for good cause shown. A motion to continue a hearing must be made at least ten (10) calendar days prior to the hearing date and may be granted or denied in the discretion of the Chair of the Commission.

00.428 DEFAULTS

Failure of a respondent to file an answer to the complaint or to request a hearing, to appear personally at a hearing on the merits or to appear at a prehearing conference without having obtained a waiver of appearance, shall constitute an admission of all matters and facts contained in the complaint filed with respect to such respondent, and shall be deemed a waiver of the right to an evidentiary hearing. In such cases the Commission may take action based upon such admission or upon any other evidence, including affidavits, and without any further notices whatever to respondent. For good cause shown, the Commission may set aside any action it has taken based upon a default.

00.429 STANDARDS OF PROOF

Findings of fact shall be based upon a preponderance of the evidence standard, that is, a finding of fact must be supported by evidence that, when considered and compared with opposing evidence, has

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more convincing force and produces in the minds of the Commissioners a belief that what is sought to be proved is more likely true than not true.

**00.430 DECISIONS OF THE COMMISSION**

Decisions of the Commission regarding disciplinary proceedings shall be in writing, issued within sixty (60) days after the hearing and served upon the parties personally, by certified mail, return receipt requested. A copy shall also be provided to the Governor of the Community at the same time.

**00.431 PENALTIES**

The Commission may suspend, revoke, limit or condition the License of any person or Entity, or order the suspension or termination of any Gaming Employee, found to have violated the provisions of this Title, the Compact or the Regulations. The Agency may impose a civil fine of not more than \$5,000 for each separate violation. All fines must be paid to the Commission within fifteen (15) days following the date on which the order to pay the fine is issued unless otherwise ordered by the Commission. All fines received by the Commission shall be deposited in the general fund of the Community.

**00.432 RIGHT TO APPEAL TO COMMUNITY COURT**

A Licensee may appeal a final decision of the Commission to suspend or revoke a License, but not the denial of an Application, in the Community Court at any time within thirty (30) days after the effective date of such final decision.

**CHAPTER FIVE - CONDUCT OF CLASS II AND CLASS III GAMING**

**00.501 FINANCIAL PRACTICES AND REPORTING OF GAMING ENTERPRISES;  
MONTHLY REPORTS**

On or before the third Wednesday of each month, the Chief Executive Officer of each Gaming Enterprise shall file with the Commission and the Treasurer of the Community:

- A. The financial statements for Class II and Class III Gaming for the preceding calendar month prepared in accordance with Generally Accepted Accounting Principles;
- B. A schedule listing the names and addresses of each person or Entity to whom an aggregate of \$600 or more of non-payroll expense has been incurred or paid during the month; and



- C. The purposes for which each such payment was made.
- D. The Chief Executive Officer shall attest in writing that the financial statements and schedules are complete and accurate based upon information reasonably known at the time.

00.502 MAINTENANCE OF GAMING ENTERPRISE FINANCIAL INFORMATION

- A. Each Gaming Enterprise shall be responsible for maintaining financial books and records necessary for the development and substantiation of financial reports made to the Commission.
- B. The failure of the Chief Executive Officer to file a report required by the Commission within the time allowed, or if a report is not fully, accurately and truthfully completed, is cause for suspension of the Chief Executive Officer's License.

00.503 MAINTENANCE OF BOOKS AND RECORDS; COMMISSION ACCESS

- A. A Gaming Enterprise shall maintain books of account showing the condition of the business and all transactions in accordance with Generally Accepted Accounting Principles, including all transactions relating to Class II or Class III Gaming.
- B. The Commission and the Community Treasurer shall have access to the books of account prescribed hereunder and shall be entitled to examine them without notice at any time during ordinary business hours or hours during which gaming is conducted.
- C. Books of account of Gaming Enterprises regulated pursuant to this Title shall be maintained for five years.

00.504 ALLOWABLE OPERATING EXPENSES

- A. No item of expense shall be incurred or paid by a Gaming Enterprise in connection with the operation or conduct of Class II or Class III Gaming, or any other activity, except business related expenses of reasonable amounts.
- B. Expenses, revenue and transactions shall be recorded under classifications accepted in the gaming industry and by the Governmental Accounting Standards Board that shall be summarized in a chart of accounts prepared by the Gaming Enterprise and provided to the Commission. The Gaming Enterprise shall notify the Commission in writing in advance of any changes in the chart of accounts.

- C. No expenses shall be incurred except in accordance with the budget of the Gaming Enterprise which has been approved by its Board of Directors in accordance with procedures required by the Community Council.
- D. No extraordinary expenses or obligations not in the ordinary course of business, such as to expand a facility, to purchase or lease real property, or to encumber the property or revenue of a Gaming Enterprise may be incurred or undertaken except upon the prior approval of the Community Council.

00.505 DEPOSIT OF GROSS RECEIPTS; PAYMENT OF OPERATING EXPENSES

All gross receipts of Gaming Enterprises shall be deposited in a single account of the Gaming Enterprise. All operating expenses shall be withdrawn from such account by consecutively numbered checks duly signed by two authorized signatories of the Gaming Enterprise. No check issued by a Gaming Enterprise located on the Reservation shall be drawn to "cash" or a fictitious payee. The foregoing however shall not restrict the Gaming Enterprises board of director's authority to establish such additional bank accounts that in its prudent judgment enhances the accountability of its business activities. Examples of such additional bank accounts are accounts for payroll, slots jackpot, keno prizes, bingo prizes, and for ATM transactions.

00.506 ANNUAL AUDIT

- A. A Tribal Gaming Enterprises' financial statements, shall be audited, not less than annually, by an independent certified public accountant licensed by the State. The financial statement and audit shall be prepared in accordance with Generally Accepted Auditing Standards and shall be delivered to the Tribal Gaming Office, the State Gaming Agency and the National Indian Gaming Commission within one hundred twenty (120) days of the close of the Fiscal Year of the Gaming Enterprise.
- B. The cost of the annual audit shall be borne by the Gaming Enterprise. The outside accountants shall be retained to perform the audit under an agreement in writing that names the Treasurer of the Community, the Commission, and the Board of Directors of the Gaming Enterprise as clients; that requires the accountants to consult with and report fully the results of their audit to their clients; and that sets out the scope of the audit as agreed to by the Commission, the Gaming Enterprise, and the Treasurer of the Community.
- C. The accountants shall perform an annual financial statement audit in accordance with Generally Accepted Auditing Standards and, may also be engaged by the Commission or the

Gaming Enterprise to audit other functions of the Gaming Enterprise, including but not limited to the following:

1. Audit or review the books and records of the Gaming Enterprise;
2. Review the accounting methods and procedures used by the Gaming Enterprise;
3. Review and observe methods and procedures used by the Gaming Enterprise to count and handle cash, Chips, Tokens, negotiable instruments and credit instruments;
4. Examine the Gaming Enterprise's records and procedures in extending credit;
5. Examine and review the Gaming Enterprise's internal control procedures and compliance therewith;
6. Examine all accounting and bookkeeping records and ledger accounts of the Gaming Enterprise;

00.507      AUDIT OF CONTRACTS

Any contract with a Gaming Enterprise for supplies, services, or concessions, which exceeds \$25,000 annually, except contracts for professional legal and accounting services, shall be specifically included within the annual outside audit.

00.508      DISPOSITION OF NET CASH RECEIPTS

The net cash receipts derived from the conduct of Class II and Class III Gaming conducted on the Reservation, including receipts from any source, shall be deposited into the general fund of the Community on a daily basis, subject to a reasonable reserve for operations.

00.509      COMPLIANCE WITH THE INTERNAL REVENUE CODE

Each Gaming Enterprise shall maintain a permanent record containing the name and address of each player who receives a prize or payoff in any instance required by, and in accordance with, the Internal Revenue Code of 1986, as amended.

00.510      [deleted]

00.511      NAME TAGS

All Gaming Employees and persons who operate or conduct, or assist in operation or conduct of Class II or Class III Gaming shall wear legible tags evidencing their names and the legend of the Gaming

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Enterprise.

00.512 QUALIFICATION FOR EMPLOYMENT; TESTING

Employees of Gaming Enterprises shall be of good moral character, shall not have been convicted of any felony or gaming offense, and, as a condition of their contract of employment, shall agree to any lawful means of testing for truthfulness, and for physical or chemical evidence of controlled substances or alcohol, including but not limited to polygraph testing, in accordance with applicable federal law. No person shall be employed by a Gaming Enterprise whose prior activities, criminal record if any, reputation, habits, or associations pose a threat to the public interest or to the effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the operation or conduct of gaming or the carrying on of the business and financial arrangements incidental thereto.

00.513 PREFERENCE IN EMPLOYMENT

At least 65 percent of the employees of each Gaming Enterprise located on the Reservation shall be members of the Community or their spouses or children. Provided, however, that each Gaming Enterprise employee shall be qualified for the position for which he or she was hired according to standards set by the Gaming Enterprise. If sufficient numbers of qualified members of the Community and their spouses and children are not available so that the provision of this Section can be met, members of other Indian tribes shall be hired instead toward the achievement of this requirement. Gaming Enterprises shall provide sufficient training opportunities to all employees, and shall provide employees who are Community members with sufficient training opportunities to ensure that Community members acquire the experience and skills necessary to assume management and supervisory positions in the Gaming Enterprise within projected reasonable timeliness. A Gaming Enterprise shall not, for the purpose of avoiding the requirement of this section, hire non-members as or through independent contractors.

00.514 ADVERTISEMENT OF POSITIONS

All positions and vacancies in Gaming Enterprises located on the Reservation shall be posted at all Gaming Facilities and at such other reasonable locations as are selected by the Commission for at least seven (7) days prior to filling the position or vacancy. The position notices shall contain a statement of minimum job qualifications, job duties, hours of work, compensation and shall outline the application procedure, including the application deadline.

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00.515 PERSONNEL POLICIES

Each Gaming Enterprise shall adopt and provide to each employee written personnel policies which shall provide a grievance procedure providing for an employee's right to receive a written statement of reasons in the event of dismissal or adverse personnel action.

00.516 REPORT OF LEASES

Each Gaming Enterprise shall report to the Commission all leases and amendments thereto to which it is a party not later than thirty (30) days following the effective date of the lease or any amendment and shall include:

- A. the name, address, and a brief statement of the nature of the business of the Lessor.
- B. a brief description of the material terms of the Lease.
- C. a brief description of any business relationships between the operating licensee and the Lessor other than by the Lease.

00.517 EMPLOYEE REPORT

- A. Each Gaming Enterprise shall submit a quarterly employee report to the Commission on a form to be furnished by the Commission. The report shall identify the job classification for each Licensee engaged in Gaming Activity and for each whether:
  - 1. the individual is directly or indirectly engaged in the administration or supervision of the Gaming Enterprise or security activities of the Gaming Enterprise.
  - 2. the individual is compensated in any manner in excess of \$80,000 per annum;
  - 4. the individual has authority to hire or terminate Gaming Employees;
  - 5. the individual has the authority to supervise or direct a shift of any gaming or security activity, including but not limited to supervision or direction of the pit area, keno or bingo games, slot machines, race or sports books, Pari-Mutuel operations, or has the authority to supervise or direct such persons;
  - 6. the individual regularly participates in cash counts more frequently than one day each week or participates in the count more than ten (10) days in any thirty (30)

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day period;

7. the individual may approve or extend to casino patrons complimentary services other than complimentary beverages;
8. the individual supervises or directs other employees engaged in the control of gaming assets and revenues and record keeping, including the recording of cash and evidences of indebtedness, and the maintenance, review or control of the records, accounts, and reports of transactions which are required to be kept;
10. the person individually or as part of a group formulates management policy;

00.518 LOANS TO GAMING ENTERPRISES

Whenever a Gaming Enterprise intends to apply for or receive, accept, or make use of any cash, property, credit, guarantee, other form of security loaned to or provided for a Gaming Enterprise or on behalf of a Gaming Enterprise, it shall notify the Commission at least thirty (30) days prior to such transaction.

- A. Notice of such a transaction shall be submitted on a form provided by the Commission and shall include:
  1. the names and addresses of all parties to the transaction;
  2. the amount and source of the funds, property or credit to be received or applied for;
  3. the nature and amount of security to be provided by or on behalf of the Gaming Enterprise, and the purpose of the transaction.
- B. The report shall be accompanied or supplemented by copies of documents, and such other supporting data as the Commission may require.
- C. If, after such investigation as the Commission deems appropriate, and before the transaction is completed, the Commission finds that the transaction is inimical to the health, safety, morals, good order and general welfare of the Community, or would reflect, or tend to reflect, discredit upon the Community, the Commission shall order that the transaction not be completed or that it be modified upon such terms and conditions as it may deem appropriate.

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00.519 OPERATIONAL REQUIREMENTS

- A. It is the policy of the Community to require that Gaming Activity licensed under this Title be conducted in a manner suitable to protect the public health, safety, morals, good order and general welfare of the Community.
- B. Responsibility for the employment and maintenance of suitable methods of operation rests with the Gaming Enterprise and willful or persistent use or toleration of methods of operation deemed unsuitable will constitute grounds for License revocation or other adverse action.

00.520 PUBLICATION OF PAYOFFS

- A. Payoff schedules or awards applicable to every Class II or Class III game or Class III Gaming Device shall be displayed by the Gaming Enterprise at all times either on a gaming table, the Gaming Device or in a conspicuous place immediately adjacent thereto. The foregoing requirement will be satisfied if published payoff schedules are maintained in a location readily accessible to players and notice of the location of such schedule is posted.
- B. Payoff schedules or award cards must accurately state actual payoffs or awards applicable to the particular game or device and shall not be worded in such manner as to mislead or deceive the public. Maintenance of any misleading or deceptive matter on any payoff schedule or award card or failure on the part of the Gaming Operation to make payment in strict accordance with posted payoff schedules or award cards may be deemed an unsuitable method of operation.

00.521 GAMING BY PRINCIPALS AND EMPLOYEES

No Licensee or person actively involved in the management of or the conduct of licensed games, shall play or be permitted to play, either directly or indirectly through another person, any Class II or Class III game conducted on the Reservation.

00.522 TRANSFER OF INTEREST BY LICENSEES

- A. A Licensee who proposes to transfer or assign any portion of his or her interest in an Entity required to be licensed by the Commission, to another, shall give written notice of such proposed transfer or assignment to the Commission, including the names and addresses of the parties, the extent of the interest proposed to be transferred or assigned and the consideration therefor.

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- B. The proposed transferee shall furnish to the Commission a sworn statement setting forth the source of funds to be used by him or her in acquiring such interest and shall also furnish to the Commission such further information as may be required.
- C. If the Commission does not give notice of disapproval of the proposed transfer of interest within fifteen (15) days, the proposed transfer of interest will be deemed approved and the transfer of interest may then be effected in accordance with the terms of transfer as submitted to the Commission. The parties shall immediately notify the Commission when the transfer of interest is actually effected.
- D. A Gaming Enterprise may not transfer or assign any interest in the Gaming Enterprise, any Gaming Activity, its License, or any future revenue without prior approval of the Community Council.
- E. Licenses held by natural persons may not be assigned.

00.523 GAMING DEVICES

- A. No Gaming Device shall be made available for play by the public unless the Gaming Device has been leased, purchased or otherwise obtained from Manufacturers and Distributors licensed by the Commission.
- B. The Commission shall require each licensed Manufacturer and Distributor to verify under oath, on forms provided by the Commission, that the Gaming Devices manufactured or distributed by them for use or play at Gaming Enterprises on the Reservation meet the requirements of this Title and the Compact.
- C. The Commission may require at reasonable times the testing of any Gaming Device to ensure compliance with the requirements of this Title. Any such testing shall be conducted by persons selected by the Commission and shall be at the expense of the licensed Manufacturer or the Gaming Enterprise.

00.524 REGULATION OF CHIPS AND TOKENS

- A. Chips and Tokens used at Gaming Enterprises located on the Reservation must be designed, manufactured, and constructed in compliance with all applicable statutes, Regulations, and policies of the United States, Arizona and other states so as to prevent counterfeiting of the Chips and Tokens to the extent reasonably possible.



Chips and Tokens must not deceptively resemble any current or past coinage of the United States or any other nation.

- B. In addition to such other specifications as the Gaming Enterprise may approve:
1. the name of the Gaming Enterprise must be inscribed on each side of each Chip and Token;
  2. the value of the Chip or Token must be inscribed on each side of each Chip and Token, other than Chips used exclusively at roulette;
  3. the manufacturer's name or a distinctive logo or other mark identifying the manufacturer must be inscribed on at least one side of each Chip and Token; and
  4. each Chip must be designed so that when stacked with Chips and Tokens of other denominations and viewed on closed-circuit, black and white television, the denomination of the Chip can be distinguished from that of other Chips and Tokens in the stack.
- C. Specifications for Chips - Unless the Commission approves otherwise, Chips must be disk shaped, must be .130 inch thick, and must have a diameter of:
1. 1.55 inches, for Chips used at games other than baccarat;
  2. 1.55 inches or 1.6875 inches, for Chips used at baccarat;
  3. 1.6875 inches, for Chips used exclusively at Race Books and Sports Pools or other counter games; and
  4. Each side of each Chip issued for use exclusively at a Race Book, Sports Pool or particular game must bear an inscription clearly indicating that use of the Chip is restricted to that game.
- D. Specifications for Tokens - Unless the Commission approves otherwise, Tokens must be disk-shaped and must measure as follows:
1. No Token may be smaller than 1.459 inches or larger than 1.95 inches in diameter, and no Token may be from 1.475 through 1.525 inches in diameter;

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2. One dollar denomination Tokens must be from 1.459 through 1.474 inches in diameter, from .095 through .115 inch thick, and, if the Token has reeds or serration on its edges, the number of reeds or serration must not exceed 150;
3. Five dollar denomination Tokens must be 1.75 inches in diameter, from .115 through .135 inch thick, and, if the Token has reeds or serration on its edges, the number of reeds or serration must not exceed 175;
4. Twenty-five dollar denomination Tokens must be larger than 1.75 inches but no larger than 1.95 inches in diameter (except that such Tokens may be 1.654 inches [42 millimeters] in diameter if made of 99.9 percent pure silver), must be .10 inch thick, and, if the Token has reeds or serration on its edges, the number of reeds or serration must not exceed 200;
5. Tokens of other denominations must have such measurements and edge reeds or serration as the Commission may approve;
6. Tokens must not be manufactured from material possessing sufficient magnetic properties so as to be accepted by a coin mechanism, other than that of a Gaming Device; and
7. Tokens must not be manufactured from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core, nor from a copper-based material, unless the total of zinc, nickel, aluminum, magnesium, and other alloying materials is at least 20 percent of the Token's weight.

00.525 USE OF CHIPS AND TOKENS

A. The Gaming Enterprises shall:

1. Comply with all applicable statutes, and regulations pertaining to Chips or Tokens;
2. Sell Chips and Tokens only to patrons of the Gaming Enterprise and only at their request;
3. Promptly redeem its own Chips and Tokens from its patrons;
4. Post conspicuous signs at the Gaming Enterprise notifying patrons that federal law prohibits the use of the Licensee's Tokens outside the facility for any

monetary purpose whatsoever; and

5. Take reasonable steps, including examining Chips and Tokens and segregating those issued by another Gaming Enterprise to prevent the issuance to its patrons of Chips and Tokens issued by another Gaming Enterprise.
- B. Gaming Enterprises shall not accept Chips or Tokens as payment for any good or services offered at the Gaming Enterprises with the exception of the specific use for which the Chips or Tokens were issued, and shall not give Chips or Tokens as change in any other transaction.
- C. Gaming Enterprises shall not redeem its Chips or Tokens if presented by a person whom the Gaming Enterprise knows or reasonably should know is not a patron of the Gaming Enterprise, except that a Licensee shall promptly redeem its Chips and Tokens if presented by an employee of the Gaming Enterprises who presents the Chips and Tokens in the normal course of employment.
- D. Chips, the use of which is restricted to uses other than at specified table games may be redeemed by Gaming Enterprises at table games or non-specified table games if the Chips are presented by a patron, and the Gaming Enterprises redeems the Chips with Chips issued for use at the game, places the redeemed Chips in the table's drop box, and separates and properly accounts for the redeemed Chips during the count performed pursuant to the Internal Control System.

00.526 REDEMPTION AND DISPOSAL OF DISCONTINUED CHIPS AND TOKENS

If the Gaming Enterprises permanently removes from use or replaces approved Chips or Tokens at the Gaming Enterprise it shall redeem discontinued Chips and Tokens that remain outstanding at the time of discontinuance pursuant to a plan prepared by the Gaming Enterprises and approved by the Commission and the State Gaming Agency.

00.527 DESTRUCTION OF COUNTERFEIT CHIPS AND TOKENS

- A. Unless a law enforcement officer instructs or a court of competent jurisdiction orders otherwise in a particular case, the Gaming Enterprises shall destroy or otherwise dispose of counterfeit Chips and Tokens discovered at the Gaming Facilities in such manner as it deems appropriate.
- B. Unless a peace officer instructs or court of competent jurisdiction orders otherwise in a particular case, the Gaming Enterprises may dispose of coins of the United States or any other nation discovered to have been unlawfully used

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at its establishment by including them in their coin inventories or, in the case of foreign coins, by exchanging them for United States currency or coins and including the same in their currency or coin inventories, or by disposing of them in any other lawful manner.

C. The Gaming Enterprises shall record:

1. The number and denominations, actual and purported, of the coins and counterfeit Chips and Tokens destroyed or otherwise is disposed of pursuant to this Chapter;
2. The month during which such coins and counterfeit Chips or Tokens were discovered;
3. The date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, the business or person at which or with whom the coins are exchanged; and
4. The names of the persons carrying out the destruction or other deposition on behalf of the Gaming Enterprises.

D. The records required by Section 00.527 C. must be retained for a period of two (2) years.

00.528 OTHER GAMING EQUIPMENT

All Class II or Class III Gaming Equipment must be designed, manufactured, approved, used, discontinued, destroyed, or otherwise disposed of in accordance with the provisions of this Chapter and any applicable Regulations of the Commission.

00.529 PREMISES OPEN TO COMMISSION

Premises where any activity related to Class II or Class III Gaming Activity or any activity of a Gaming Enterprise is operated or conducted, shall at all times be open to inspection by the Commission and its staff and its employees. All documents, records, data, and communication of any type of any Gaming Enterprise or any Licensee or in the custody of any Licensee shall be made available to the Commission, upon the reasonable written demand of its Executive Director.

00.530 PROTECTION OF THE ENVIRONMENT AND PUBLIC HEALTH AND SAFETY

Class II and Class III Gaming Facilities shall be constructed, maintained, and operated in a manner that adequately protects the environment and the public health and safety in accordance with 25

C.F.R. § 522.4(j)(B)(7).

CHAPTER 6 - CONDUCT OF CLASS II GAMES

00.601 MERCHANDISE PRIZES

When any merchandise is awarded as a prize in a Class II game, the value of such merchandise shall be its actual retail price.

00.602 PRIZE PURCHASE PRICES

Equipment, prizes, and supplies for Class II games of chance shall not be purchased or sold at prices in excess of the usual price thereof.

00.603 NO LIMIT ON PRIZES

There shall be no limit on the size of the prize offered or given in any bingo game or on any occasion.

00.604 CLASS II RULES OF PLAY

- A. The equipment used in Class II games and the method of play shall be such that each card shall have an equal opportunity to win.
- B. The objects or balls to be drawn shall be uniform as to size, shape, weight, balance, and any other characteristic that might influence their selection.
- C. All objects or balls shall be present in the receptacle before each game is begun.
- D. All numbers or designations drawn shall be announced plainly and clearly, and shall be audible or visible to all the players present including, where more than one room is used for any bingo game, all players present in each room.
- E. The receptacle, the caller, and the person removing the objects or balls from the receptacle must be visible to all the players at all times, except that where more than one room is used for any bingo game, the receptacle and the caller must be present in the room where the greatest number of players are present.
- F. The cards or sheets of the players shall be a part of a deck, group, or series of cards, no two of which shall be alike, and which deck, group, or series shall not be so prepared or arranged as to prefer any card.

- G. The particular arrangement of numbers or designations required to be covered in order to win the game and the amount of the prize shall be plainly and clearly described, and audibly or visibly announced to the players immediately before each game is begun.

00.605 PLAYERS ENTITLED TO VERIFICATION

Any player of Class II Gaming shall be entitled to call for a verification of all numbers or designations drawn at the time a winner is determined and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the most senior supervisory official for the shift at which the verification is made.

CHAPTER 7 - ACCOUNTING PROCEDURES

00.701 [deleted]

00.702 ACCOUNTING RECORDS

- A. Every Gaming Enterprise located on the Reservation shall keep accurate, complete, legible, and permanent records of all transactions pertaining to revenues.
- B. Every Gaming Enterprise located on the Reservation shall keep general accounting records on a double entry system of accounting, maintaining detailed, supporting and subsidiary records, which shall include:
1. Detailed records identifying revenues, expenses, assets, liabilities, and equity;
  2. Detailed records of all markers, IOU's, returned checks, hold checks or other credit instruments;
  3. Such other uniform periodic reports, including statistical reports as may be reasonably required by the Commission;
  4. Individual and statistical game records to reflect statistical drop, statistical win and the percentage of statistical win to statistical drop by table for each table game, and to reflect statistical drop for each type of table game, either by shift or other accounting period as determined by Gaming Enterprise management and individual and statistical game records reflecting similar information for all other games;

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5. Gaming Device analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages; and
6. The records required by the Internal Control System.

C. A Gaming Enterprise shall create and maintain such records as required to accurately reflect gross gaming revenue and expenses relating solely to Gaming Activity, separate from any other revenue and expenses of the Gaming Enterprise.

00.703 [deleted]

00.704 INTERNAL CONTROLS

Every Gaming Enterprise on the Reservation shall be operated pursuant to an Internal Control System adopted by the Gaming Enterprise and approved by the Commission that meets the requirements of the Compact. Every Gaming Enterprise located on the Reservation shall provide a copy of the Internal Control System and any amendments thereto to the Commission, before they become effective. The Commission shall approve, temporarily approve, conditionally approve, or disapprove the internal controls or amendments thereto within thirty (30) days of receipt or the controls or amendments are deemed approved.

00.705 GROSS REVENUE COMPUTATIONS

1. With respect to each table game, Gross Revenue shall equal the closing bankroll plus credit slips for cash, Chips, or Tokens returned to the casino cage, plus drop, less opening bankroll and fills to the table.
2. For each Gaming Device, Gross Revenue shall equal drop, less fills to the machine, jackpot payout, and the actual cost to the Gaming Enterprise of any personal property (other than costs of travel, lodging, services and food and beverages) provided for or distributed to a patron as winnings. The initial hopper load shall not be treated as a fill and shall not affect gross gaming revenue. The difference between the initial hopper load and the total amount in the hopper must be adjusted once a year accordingly as an addition to or subtraction from the drop for the quarter.
3. For each counter game, gross gaming revenues shall equal:
  - a. The money accepted by the Gaming Enterprise on events or games that occur during the month or will occur in subsequent months, less money paid out

during the month to patrons on winning Wagers; or

- b. The money accepted by the Gaming Enterprise on events or games that occur during the month plus money, not previously included in Gross Revenue, that was accepted by the Gaming Enterprise in prior months in relation to events or games occurring in the month, less money paid out during the month to patrons on winning Wagers.
4. For each card game and any other game in which the Gaming Enterprise is not a party to a Wager, Gross Revenue shall equal all money received by the Gaming Enterprise as compensation for conducting the game.
5. The Gaming Enterprise shall not include in Gross Revenue computations either shall win or shall loss.
6. If in any month the amount of Gross Revenue is less than zero, the Gaming Enterprise may deduct the excess in the succeeding months, until the loss is fully offset against gross gaming revenue.

00.706 FINANCIAL SERVICES FOR CUSTOMERS

A Gaming Enterprise may provide check cashing services, banking machine services, or credit card services to customers through contract agreements with third party vendors subject to approval of any such contracts by the Commission. Neither a Gaming Enterprise, or a Key Employee or Primary Management Official may extend credit to a customer.

CHAPTER 8 - CLASS I GAMING

00.801 CLASS I GAMING

Until such time as the Community Council shall otherwise determine, the authority to control or regulate Class I Gaming activities shall remain with the Community Council.

00.802 CLASS I GAMES EXEMPT FROM PROVISIONS OF THIS TITLE

Notwithstanding the provisions of this Title, a nonprofit organization may conduct or operate small bingo games on the Reservation subject to the following restrictions:

- A. The nonprofit organization shall maintain its not-for-profit status and no member, director, officer, employee or agent thereof may receive any direct or indirect pecuniary benefit other than the ability to participate in the games on a basis



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equal to all other participants.

- B. The nonprofit organization shall have been in existence continuously on the Reservation for at least a two (2) year period immediately prior to the conduct of a small bingo game.
- C. No person except a bona fide member of the nonprofit organization and an enrolled member in the Community or resident of the Reservation may participate directly or indirectly in the conduct or supervision of a Class I game.
- D. Except as otherwise provided by this Section a prize greater in amount or value than \$1,000 shall not be offered or given away in any single game of bingo and total prizes shall not exceed an amount or value greater than \$3,000 for any occasion or the game shall be a Class II game subject to authority of the Commission. Door prizes, discounts or other inducements with a value exceeding \$50 per occasion shall not be given away.
- E. Upon special Application by the nonprofit organization to the Commission, the Commission may, in its discretion authorize one special bonus game to be played at weekly consecutive occasions with a quarterly prize limit of \$12,000. A weekly consecutive occasion shall be an occasion played on the same day of each week during the quarter. The special bonus game may be played at each weekly consecutive occasion subject to rules to be promulgated by the Commission. The special bonus game is not subject to the prize limits set forth in the Section D., above.
- F. A nonprofit organization shall not conduct or operate more than three (3) occasions of bingo during any calendar week. On any occasion at which bingo games are played they shall not exceed 35 in number in any day.

**CHAPTER 9 - CRIMES AND LIABILITIES CONCERNING GAMING**

**00.901 FRAUDULENT ACTS**

- A. It shall be unlawful for any person:
  - 1. To alter or misrepresent the outcome of a game or other event on which Wagers have been made after the outcome is arrived at but before it is revealed to the players;
  - 2. To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event

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that affects the outcome of the game or which is the subject of the bet;

3. To aid anyone in the acquisition of such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
4. To claim, collect or take, or attempt to claim, collect or take, money or anything of value in or a Gaming Enterprise, with intent to defraud, without having made a Wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
5. To knowingly entice or induce another to participate in a gaming conducted or operated in violation of the provisions of this Title with the intent that the other person play or participate in that gambling game;
6. To place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting and pressing bets;
7. To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or the event which is the subject of the bet, including pinching bets; or
8. To manipulate, with the intent to Cheat, any component of a Gaming Device in a manner contrary to the designed and normal operational purpose for the component, including, but not limited to, varying the pull of the handle of a slot machine, with knowledge of that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game.

00.902 USE OF DEVICE FOR CALCULATING PROBABILITIES

It shall be unlawful for any person patronizing a Gaming Enterprise on the Reservation to use, or possess with the intent to use, any device to assist:

- A. In projecting the outcome of the game;
- B. In keeping track of the cards played;
- C. In analyzing the probability of the occurrence of an event relating to the game; or

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- D. In analyzing the strategy for playing or betting to be used in the game.

00.903 USE OF COUNTERFEIT OR UNAPPROVED CHIPS OR TOKENS OR UNLAWFUL COINS OR DEVICES; POSSESSION OF CERTAIN DEVICES, EQUIPMENT, PRODUCTS OR MATERIALS

- A. It shall be unlawful for any licensed person, Entity, employee or other person to use counterfeit Chips in a game regulated pursuant to this Title.
- B. It shall be unlawful for any person, playing or using any game regulated pursuant to this Title which is designed to be played with, received or operated using Chips or Tokens approved by the Commission or by lawful coin of the United States:
  - 1. To knowingly use Chips or Tokens other than those approved by the Commission or lawful coin, legal tender of the United States, or to use coin not of the same denomination as the coin intended to be used in that gambling game; or
  - 2. To use any device or means to violate the provisions of the Compact or this Title.
- C. It shall be unlawful for any person, not a duly authorized employee of a Gaming Enterprise located on the Reservation acting in furtherance of his or her employment with the Gaming Enterprise, to have on his or her person or in his or her possession on or off the premises any device intended to be used to violate the provisions of this Title or the Compact.
- D. It shall be unlawful for any person, not a duly authorized employee of the Gaming Enterprise acting in furtherance of his or her employment within the Gaming Facility, to have on his or her person or in his or her possession on or off the premises any key or device demonstrated to have been designed for the purpose of and suitable for opening, entering or effecting the operation of any game regulated pursuant to this Title, drop box or any electronic or mechanical device connected thereto or for removing money or other contents therefrom.
- E. It shall be unlawful for any person to have on his or her person or in his or her possession any Paraphernalia for Manufacturing Slugs.

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- F. Possession of Paraphernalia for Manufacturing Slugs which includes possession of more than one device, piece of equipment, product or material described in this Section shall permit, in any action against the possessor resulting from such possession, a rebuttable inference that the possessor thereof intended to use them for the purpose of Cheating.

00.904 CHEATING

It shall be unlawful for any person, whether he or she is an employee of the Gaming Enterprise or a patron thereof to Cheat at any game regulated pursuant to this Title.

00.905 UNLAWFUL MANUFACTURE, SALE, DISTRIBUTION, MARKING, ALTERING OR MODIFICATION OF EQUIPMENT AND DEVICES ASSOCIATED WITH GAMING; UNLAWFUL INSTRUCTION

- A. It shall be unlawful to manufacture, sell or distribute any cards, Chips, dice, game or device intended to be used to violate any provision of this Title or the Compact.
- B. It shall be unlawful to mark, alter or otherwise modify any Gaming Equipment or Gaming Device in a manner that:
  - 1. Affects the result of a Wager by determining win or loss; or
  - 2. Alters the normal criteria of random selection affecting the operation of a game or which determines the outcome of a game.
- C. It shall be unlawful for any person to instruct another in Cheating or in the use of any device for that purpose, with the knowledge or intent that the information or its use so conveyed may be employed to violate any provision of this Title or the Compact.

00.906 PENALTIES

- A. Any person who violates any provision of this Chapter shall be punished, for each such violation, to the maximum extent allowable for violations of the laws of the Community and may be denied any privilege under this Title, including a License.
- B. Any person or persons who attempts, or two or more persons who conspire, to violate any provision of this Title, shall each be punished by imposing the penalty provided in A. of this Section for the completed crime, whether or not he or

she personally played any gambling game or used any prohibited device.

00.907 PROVIDING FALSE INFORMATION; OBSTRUCTION OF JUSTICE

- A. It shall be unlawful for any person or Entity to knowingly submit any false or misleading, information or to refuse to submit information required by this Title or regulations of the Commission, to a Gaming Enterprise, the Commission, an employee of the Commission, the Community, the National Indian Gaming Commission, or to the State Gaming Agency.
- B. It shall be unlawful for any person to corruptly influence, obstruct, or impede or endeavor to influence, obstruct, or impede the due and proper administration of the law under which any pending investigation or proceeding is being had before the Commission or any agency of the Community.

00.908 DETENTION AND QUESTIONING OF PERSONS SUSPECTED OF VIOLATING CHAPTER; LIMITATIONS ON LIABILITY; POSTING OF NOTICE

- A. Authorities who question any person suspected of violating any of the provisions of this Title, the Compact, or state or federal law or regulation shall not be criminally or civilly liable:
  - 1. On account of any such questioning; or
  - 2. For reporting to the Commission, the State Gaming Agency, federal or state regulatory authorities, or law enforcement authorities the identity of the person suspected of the violation.
- B. Any regulatory or law enforcement authorities who have probable cause for believing that there has been a violation of this Title or other law in connection with a Gaming Enterprise on the Reservation by any person, may take that person into custody and detain the person in a reasonable manner and for a reasonable length of time.
- C. Such taking into custody and detention shall not render the Gaming Enterprise, the Commission, or the Community or their officers, agents or employees criminally or civilly liable.
- D. There shall be displayed in a conspicuous place in the Gaming Enterprise a notice in boldface type which is clearly legible and in substantially this form:

Agents of the Gila River Gaming Commission or the State Gaming Agency, or any Authority who has probable cause for believing that a person has violated any provision of the Gila River Indian Community Gaming Ordinance Title 22, Chapter Nine prohibiting cheating in gaming and other offenses may detain that person.

00.909 DISPOSITION OF EVIDENCE SEIZED BY AGENT OF THE TRIBAL GAMING AGENCY OR THE STATE GAMING AGENCY

- A. After the final adjudication of a complaint involving a violation of this Title or the Compact, or of any other complaint involving the seizure of evidence by an agent of the Commission, a court of competent jurisdiction may enter an appropriate order disposing of all physical evidence pertaining to the complaint, whether or not the evidence was introduced as an exhibit.
- B. Except as otherwise provided herein, evidence seized by an agent of the Commission related to an investigation which does not result in a complaint charging a violation of the law and evidence for which an order of disposition is not entered pursuant hereto must be disposed of, after the evidence is no longer needed and the investigation is completed, as follows:
  - 1. The Commission shall notify by certified mail each potential claimant of the evidence that he or she has thirty (30) days following receipt of notice within which to file a written claim with the Commission for return of the evidence.
  - 2. If more than one person files a claim for the evidence:
    - a. The claimants may agree among themselves as to how they wish to divide the evidence, subject to approval of the Commission;
    - b. The claimants may agree to submit the matter to binding arbitration or any claimant may institute legal proceedings before the Community Court to determine the proper disposition of the evidence. The Commission shall return the evidence to the claimants in accordance with any agreement approved by the Commission, final judgment or award made pursuant to the provisions of this Section.

- C. A person to whom property is returned by the Commission pursuant to this Section shall execute such documents as are required by the Commission to defend, hold harmless, indemnify and release the Commission from any liability arising from the delivery of the property to the claimant.
- D. If no claim is submitted, the Commission shall deposit all seized money with the Community and may use all other property for any lawful purpose including the sale of the property. The Commission may dispose of any property which cannot be used for any lawful purpose in any reasonable manner.
- E. Evidence which constitutes a device for Cheating, contraband, or evidence not lawful to possess may not be returned to a claimant and must be retained by the Commission. The Commission shall periodically destroy such devices in any reasonable manner.

#### CHAPTER 10 - JURISDICTION; STANDARD OF REVIEW

##### 00.1001 JURISDICTION IN THE COMMUNITY COURT

- A. The Community Court shall have original and exclusive jurisdiction to consider and resolve appeals from final decisions of the Commission to suspend or revoke a License but not from the denial of an Application.
  - 1. The Community Court shall affirm a decision of the Commission unless such decision:
    - a. was contrary to applicable Constitutional rights of the appellant;
    - b. was arbitrary, capricious, or an abuse of discretion; or
    - c. was otherwise in contravention of law.
  - 2. A decision of the Community Court is subject to a further appeal to the Gila River Indian Community Court of Appeals.
- B. The Community Court shall affirm the decision of the Commission unless any factor contained in 00.1001 A., immediately above, is demonstrated, in which case the Community Court may reverse, modify, or vacate the decision of the Commission, and may remand the decision to the Commission.

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- C. In appeals of suspension and revocation orders of the Commission, the Community Court shall consider only such evidence as appears in records of the Commission and Commission hearing transcripts available at the time of its decision.

**00.1002 COMMUNITY COURT REVIEW LIMITED TO THE RECORD OF THE  
COMMISSION PROCEEDINGS**

- A. The Community Court shall have jurisdiction over any matter brought to enforce the provisions of this Title, to enforce any final decision or order of the Commission, and civil jurisdiction over all persons subject to the provisions of this Title and criminal jurisdiction over all members of federally-recognized tribes.
- B. In addition to civil and criminal penalties available hereunder, the Community Court may grant such other legal and equitable relief as is necessary and proper for the enforcement of the provisions of this Title, including but not limited to injunctive relief against acts committed in violation hereof. This Title shall be construed to authorize the exercise of jurisdiction over non-Indians to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

**00.1003 VIOLATIONS; JURISDICTION; ENFORCEMENT OF SUBPOENAS**

- A. Any person found in the Community Court to have violated any provision of this Title, shall be liable for civil penalties equal to actual damages, except that a person who commits an intentional or willful violation of any provision herein shall be liable for punitive damages, which shall be assessed in an amount not to exceed three times actual damages or \$1,000, whichever amount is greater.
- B. Any person convicted in the Community Court for violation of any provision of this Title, shall be guilty of a criminal offense punishable by a fine not to exceed \$5,000, or by imprisonment in the Community jail not to exceed one (1) year, or both for each such offense.

**00.1004 ENFORCEMENT OF COMMISSION SUBPOENAS**

- A. The Executive Director may apply to the Community Court for an order returnable in not less than five (5) nor more than ten (10) days directing a person, Entity, or a Gaming Enterprise to show cause why he or she should not be found in contempt in the event:



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1. A person subpoenaed to appear before the Commission, or to produce books, accounts, records, or other documents in any investigation or hearing conducted by the Commission fails to obey the command of the subpoena without reasonable cause; or
  2. A person in attendance at any hearing or investigation refuses, without lawful cause, to be examined, to answer any legal and pertinent question, or to exhibit any book, account, record, or other document when ordered to do so by the Commission.
- B. No person shall be excused from testifying or producing any book, account, records or other documents as directed through a subpoena of the Commission on the ground that such testimony or documentary evidence may tend to incriminate himself or herself if the Commission or the General Counsel agree in writing that such person shall not be prosecuted, punished, or subjected to any penalty or forfeiture resulting from such testimony or production of documents. No person, however, shall be exempt from prosecution or punishment for any act of perjury committed in the course of testimony presented under a grant of immunity under this Subsection.

00.1005 PATRON DISPUTES

A. REFUSAL TO PAY WINNINGS

Whenever the Tribal Gaming Enterprise authorized to operate a Class II or Class III Gaming Facility by the Commission refuses payment of alleged winnings to a Patron, and the Tribal Gaming Enterprise and the Patron are unable to resolve the dispute to the satisfaction of the Patron and the dispute involves:

1. At least five hundred dollars (\$500), the Tribal Gaming Enterprise shall immediately notify the Commission in writing specifically stating the circumstances of the disputed winnings, the issues in dispute, and the grounds on which the Tribal Gaming Enterprise bases its decision not to pay. The Commission shall conduct whatever investigation it deems necessary and shall determine whether payment should be made; or
2. Less than five hundred dollars (\$500), the Tribal Gaming Enterprise shall inform the Patron of his or her right to request that the Commission Office conduct an investigation. Upon request of the Patron, the Commission shall direct the Gaming Enterprise to prepare and submit to the Commission within ten (10) business

days a statement explaining with specificity the circumstances of the disputed winnings, and the issues in dispute.

B. NOTICE TO PATRONS

The Commission shall mail written notice by certified mail, return receipt requested, to the Tribal Gaming Enterprise and the Patron of the decision resolving the dispute within thirty (30) days following the date the Commission first receives notification from the Tribal Gaming Enterprise or a request to conduct an investigation from the Patron.

C. EFFECTIVE DATE OF DECISION

The decision of the Commission is effective on the date it is received by the aggrieved party as reflected on the return receipt as posted.

D. REVIEW OF DECISION

Within thirty (30) days following the date of receipt of the Commission's written decision, the aggrieved party may file a petition with the Commission requesting a review of the decision. The Commission may set a hearing on the matter or may make a decision based solely upon the Patron and the Tribal Gaming Enterprise. The Commission shall then issue a written decision and mail it to the parties. The decision of the Commission shall be final and binding upon the Patron and the Tribal Gaming Enterprise and shall not be subject to judicial review, dispute, resolution or other legal action.